

# STATEMENT CONCERNING THE TREATMENT OF CONSCIENTIOUS OBJECTORS IN THE ARMY



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## STATEMENT BY THE THIRD ASSISTANT SECRETARY OF WAR.

WAR DEPARTMENT,  
OFFICE OF THE THIRD ASSISTANT SECRETARY,  
*June 17, 1919.*

The honorable the SECRETARY OF WAR.

SIR: I beg leave to transmit herewith a formal statement concerning the treatment of drafted men professing conscientious objections to warfare, prepared at your direction by Col. J. S. Easby-Smith, and to suggest the propriety of having this statement printed for distribution to Members of Congress and others likely to be interested.

Attached to Col. Easby-Smith's statement and supplementing it is a statement by myself giving certain information as to the experience of this office, not covered by the formal record, which you may be interested in having available.

Respectfully, yours,

F. P. KEPPEL,  
*Third Assistant Secretary.*

Approved: June 18, 1919.

NEWTON D. BAKER,  
*Secretary of War.*

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WAR DEPARTMENT,  
OFFICE OF THE THIRD ASSISTANT SECRETARY,  
*June 13, 1919.*

The honorable the SECRETARY OF WAR.

SIR: Since I shall be leaving the service of the War Department on the 30th instant, and since the matter of dealing with men professing conscientious objections has been almost from the first in my care, it seems to me that it may be convenient for you to have me submit, before I leave the department, a brief summary of what this office has tried to accomplish in this field and a statement of what seem to me to be the underlying principles involved. In view of the fact that Col. Easby-Smith has been good enough to prepare a carefully compiled record as to the formal action taken by the department, I shall make no effort to duplicate his work, but will confine myself to matters which should properly find their place in an informal rather than a formal document.

As you know, the problem of the conscientious objector is as old as the Roman Army, when the emperors had to issue edicts making provision for the Hebrew legionaries who refused to perform military duties on their Sabbath. It appeared in the Revolutionary War, and there is an interesting parallel between the tendency to associate the conscientious objector of those days with Toryism, and the tendency during the past two years to associate him either with pro-Germanism or with the extreme radical group in economic theory as represented by the I. W. W.

During the Civil War, while legal provision was made under the draft, no acute situation arose, possibly through the arrangement whereby a man could avoid service by securing a substitute.

During the present war the problem arose only in England and the United States. We are informed that Germany promptly shot the men who professed conscientious scruples against warfare. In France, through long compulsory service, men had previously made their mental adjustments to the situation. In England and the United States, both having, for a long period previous to this war, raised their armies upon a volunteer basis, the question came up sharply with the adoption of military conscription. I venture to call your attention to the interesting comparison of the methods in the two countries, contained in Col. Easby-Smith's report, and confine myself to stating at this point that in England the court-martial of men of this type during the war totaled 5,596 and in the United States the total was 504.

Since the question arose in the United States, the War Department has been between two fires. A number of people feel that its policy has been too harsh; in fact you have now in your office petitions with more than 25,000 signatures urging immediate amnesty for all prisoners of this class. On the other hand, we hear both through the newspapers and by occasional letters that a considerable number of citizens feel that the policy of the Department has been much too lenient.

What I did try to do on behalf of the department was to make sure that any citizen, entirely apart from our agreement or disagreement with his views as to warfare, should receive treatment appropriate to America in the twentieth century rather than a Prussian reaction to an annoying situation. The typical statements of our policy are the instructions of July 30, 1918, and circular letter from the Acting Chief of Staff dated October 2, 1918, both of which are included in Col. Easby-Smith's report.

You will recall the contrasts in the manner with which these men were treated in different camps. Where their sincerity was assumed, as for example by Gen. J. Franklin Bell at Upton, out of a division made up from a cross section of the population of New York City, only thirty-odd men refused to accept military service. At another camp where it was assumed that they were insincere, 40 men were court-martialed and given long sentences for refusing to sow grass seed and plant flowers around the base hospital, an order obviously framed for the purpose of revealing the insincerity of the objector. At another camp the sanitary regulations regarding these men were interpreted in such a manner as to call forth a severe condemnation from the Inspector General of the Army.

The dislike and distrust of this small minority of Americans professing conscientious objections to warfare was marked, both in the communities from which these men came, and among enlisted men and officers.

It is significant that in all the court-martial cases of the war there were only two instances of an attempt to pose as a conscientious objector after a soldier got into trouble on some other account, and both of these men were agitators and propagandists.

The attitude of the officers is reflected in the following summary of the original sentences imposed by the court-martial in the 504



cases where men professing conscientious objections were brought to trial; of these 17 were death sentences, 142 for life, and in the remaining 345 cases the average sentence imposed was more than 16½ years. Another factor to be considered is that the great majority of the objectors were men from about the most isolated social groups in the United States, and consisted of men of the most limited social outlook. You will recall an interesting discussion of this factor of the question in Maj. Kellogg's book entitled "The Conscientious Objector." The type is essentially a passive one, and in my study of all the records of courts-martial, nearly 6,000 in all, I came upon only a single case of an attempt by a conscientious objector to desert the service after having once been inducted, although in not a few cases these men received pretty rough treatment.

It should be said that while the foregoing description represents the typical objector there is also another type, adjudged sane by the psychiatrist, but of a marked egocentric make-up, disputatious, eager to be a martyr, and absolutely predestined to trouble in all his human relationships. These are the men who make themselves most conspicuous in the camp or the disciplinary barracks, whose protests reach the newspapers, and who are regarded by some as the typical conscientious objector, whereas, as a matter of fact, they are exceptions and comprise a very small percentage of the men who announced their conscientious objections upon entering the military service.

Our idea of a square deal involved (1) a test as prompt and thorough as possible of a man's sincerity, and insistence that his case should not be prejudged before such test was made (the steps to be taken after such tests are outlined in the documents presented by Col. Easby-Smith), and (2) to check each complaint received as to the treatment of these men in camps and prisons. Usually the charges were unfounded, but in two or three cases we found serious situations which had to be rectified for the good name of the Army. As a result of our efforts to see that these men got a square deal, no more and no less, it was sometimes charged that we were more interested in them than in the men who were willing to fight. The problem being a new one, we had to make adjustments as we went along, which accounted for a number of orders and instructions, this again giving to some people the idea of an undue interest in the whole question.

The newspaper stories and addresses by excited people made some of the most preposterous charges; for example, that my interest in the matter was because my wife was a Mennonite which she is not; that the department had printed an order in German for the convenience of slackers; that the whole policy was I. W. W. propaganda in disguise. The opinion was freely expressed that the announced policy of the department would breed a million slackers for the next draft. As a matter of fact, the ratio of men professing conscientious objections in the camps to the total inductions is as 3,989 to 2,810,296, or 0.0014 per cent.

The public statements of certain former officers charge that the policy of the War Department with reference to this matter has been in effect under the instruction and guidance of the National Civil Liberties Bureau. In case the question of the relation of this office to that bureau should arise at any time in the future, it may

be of service to you to have for reference the following extracts from letters by me to the two members of that bureau who happened to be personal acquaintances. On May 19, 1918, I sent the director of that bureau the following letter:

I have had a talk with the Secretary of War with reference to the question which you raised, and I have also consulted some of his military associates, and we have all come to the conclusion that, under the circumstances, it would not be in the public interest for us to continue to supply information pursuant to your request, or otherwise to cooperate in any way with the Civil Liberties Bureau. I have before me a memorandum from the Military Intelligence Branch which gives in detail evidence of activities of the bureau which seem to justify this decision and of which I had not previously known.

The attitude of the department in this matter was further made clear from a letter written to the chairman of the directors of the Civil Liberties Bureau dated September 18, 1918.

Your letter of the 13th, first appearing in the newspapers, has just reached the War Department, and has been referred to me. You and Baldwin are aware of the position of the Department with reference to dealing with the National Civil Liberties Bureau. When you two and Mr. Codman called upon the Secretary and were referred to me, you called as individuals, and were assured that the matters to which you referred would have careful attention. They have had, and are having such attention. I can only repeat to you personally what I told you then, that in my judgment the activities of the Civil Liberties Bureau as such at the present time are a distinct hindrance and in no way a help in carrying these matters to a satisfactory conclusion.

The general policy of the War Department centered around two points: (1) The effort to ascertain the sincerity of the objector. Our solution differs from that of Great Britain in that the British used local tribunals, whereas we selected a central board of inquiry, in order to get a higher grade of ability and a uniformity of treatment, even at the cost of some delay. The board consisted of one military officer as chairman, and two civilians; one a judge of the United States Circuit Court and the other a dean of a university law school. The work of this board included 10 extended trips and 40 detailed reports of visits. In addition to examining every man personally, the members of the board read the entire court-martial records, which was an enormous job. A complete record of the recommendations made by the board as a result of their visits is contained in a summary of the Adjutant General, dated January 29, 1919, and included in Col. Easby-Smith's report. The records show that the board exercised a particularly close scrutiny in the case of men whose objections to warfare were based upon other than religious grounds. According to the Adjutant General's records, out of 2,294 cases examined to January 1, 1919, only four objectors of this type were recommended for farm furlough. The records of the psychological examination of all these men were grouped and studied and in a recently published article by one of the examiners the writer gives a side-light on the question of their sincerity. His testimony is as follows:

Objectors of all types were on the whole sincere. It is a matter of pride to the Army that practically few, if any, malingerers or enemy sympathizers were found among the draftees. Certainly the objectors were seldom insincere in their beliefs.

(2) In order to meet the situation presented by men who, while they obeyed the summons to go to camp, were, so far as we could conceive, sincere in their refusal to perform any work under military orders, the department, under the existing legislation for furlough for

agricultural and industrial purposes, offered such men an opportunity to do work of national importance, not under military direction, at a private's pay and never at their own homes. Some of these men went abroad for reconstruction work, but the great majority, who were farmers, went into agricultural work. These men received the local prevailing rate of wage for men of their degree of skill, but agreed in advance to turn over all but a private's pay and subsistence to the American Red Cross. In placing the men, we enjoyed the cooperation of the Department of Agriculture, and we engaged a special commissioner to look after the details of their assignment, and to see, on the one hand, that they performed their duty efficiently, and on the other, that they were not exploited. In this connection it is interesting to note the independent suggestion of the identical solution for the difficulty which was presented by Prof. Dicey of Oxford; the details are in Col. Easby-Smith's report.

If the war had continued, we would have made a further test of the sincerity of the desire for farm furlough by arranging that a certain proportion of the cases approved, to be selected by lot, should be sent abroad for work overseas. In this connection it should be noted that a considerable number of these men, mostly members of the Society of Friends, expressed a preference for foreign work and were assigned to the Friends Reconstruction Unit, where their duties frequently exposed them to shell fire.

Some 35 men who were adjudged sincere and were offered furlough refused to accept it. They were later court-martialed in accordance with the regulations and are now at Fort Leavenworth. Regarding these men, you will recall your public statement of last February, which reads as follows:

Those men adjudged sincere in their conscientious objections to all warfare, who, in recognition of such objections, have been offered service in the national interest under civilian direction, through farm or other furlough, but who have refused to accept such service and have, since such refusal, received a court-martial sentence based upon a refusal to comply with the regulations. This class of men will not receive discharge from military obligations in advance of the return and discharge of the great body of citizens now in the military service in the United States and France.

The Board of Inquiry at no time recommended special consideration for those who professed conscientious scruples which in their judgment were against this war only and not against all warfare. There are 63 such prisoners now in Leavenworth. With regard to these, you have stated publicly:

Those men who, in the judgment of the Board of Inquiry, do not hold conscientious scruples against all warfare, but who are opposed to participation in this particular war. The War Department finds no justification for the discharge of this class upon the basis of such opposition.

The discharge of the 113 conscientious objectors from Fort Leavenworth on January 5 last was the occasion of very widespread misunderstanding, and it may be convenient to you to have a summary of the facts: Reports came to the office that men had been court-martialed, either before their cases could be studied by the Board of Inquiry, or in spite of the board's recommendations. The men most familiar with the whole problem were Judge Mack and Dean Stone, and you determined to send them to Leavenworth, not as members of the Board of Inquiry (which included an officer, himself a judge advocate), but as individual representatives of the



Secretary of War. These gentlemen, with the court-martial records before them, made inquiry of all men then under sentence who cared to appear before them. These included a number of nondeclarant aliens, later discharged on recommendation of the clemency board. Of the conscientious objectors, they recommended the discharge of certain men for the reasons stated, and you acted on this recommendation. Copies of all the papers in these cases are included in Col. Easby-Smith's report. It is of interest in this connection to note that the situation in which these men found themselves does not imply that there has been a general ignoring of the War Department policy. Four-fifths of the men came from three court-martial jurisdictions. Of the 30 men who had been definitely recommended for farm furloughs, but were later court-martialed, all but three came from one such jurisdiction.

It has been publicly stated that these men were largely political agitators who had no real status as conscientious objectors. As a matter of fact, of the 113, 103 are on record as religious objectors, 4 as nonreligious, and in the remaining 6 cases the basis of objection was not disclosed in the court-martial proceedings.

The conditions under which these men were released has been almost uniformly misstated. The facts are as follows:

(a) As to the form of discharge, they were, in the technical phrase, honorably restored to duty, as closing the court-martial record, under provisions of Revised Statutes, chapter 6, Title XIV, paragraph 7, and were then discharged as unavailable material under the general demobilization policies. The form of discharge was the so-called blue ticket, with special statement that "This is a conscientious objector who has done no military duty whatsoever and who refused to wear the uniform."

(b) They were discharged with pay. No instructions as to pay were sent from Washington, but the local judge advocate, upon inquiry from the local adjutant, ruled that the men should be paid. This opinion was later reversed by the Judge Advocate General. In my judgment the men accepted the money only because they did not want to have any refusal interfere with their discharge, but in practically every case they either returned it to the Treasury or turned it over, less their traveling expenses, to the Red Cross or Friends' work.

All the records in this matter are included in Col. Easby-Smith's report, including a copy of the actual form of discharge granted to these prisoners. It is impracticable to make a complete analysis with reference to the details of the return of pay or of contribution to welfare societies, for two reasons: In the first place, most of the men were wholly unused to business procedure and returned the money to the department in a variety of ways, sometimes without clear indication as to the sender. In the second place, the War Department properly declined to act as their disbursing agent for the charities, and directed the men to make their contributions direct, either to the Red Cross or to the Friends Reconstruction Unit.

The Director of Finance informs me that the total amount paid back to the Government by conscientious objectors through his office is \$9,840.55. The aggregate voluntarily paid to charities by these men, or turned over to the Red Cross, as the difference between their earnings on farm furlough and a private's pay, makes a very considerable total.

It so happens that we have a check on the validity of the action taken in these 113 cases. Judge Mack and Dean Stone later made similar recommendation as to 66 additional men. Action thereon has been held up, pending the operations of the Special Clemency

Board in the Judge Advocate General's Office, which has been appointed in the meantime. The action of this board, so far as it affects these additional prisoners, is as follows: Fifty-three of these men have already been discharged, on the merits of the case, upon the recommendation of the Special Clemency Board. Although the 13 remaining have had their sentences so reduced on recommendation of this Board that the average time remaining for the prisoner to serve would be less than six months, I recommend that as their cases are exactly similar, in the judgment of Judge Mack and Dean Stone, to the 166 men already discharged, the unexpired portion of their sentences be now remitted and they be discharged with the "blue ticket," bearing the customary statement that the bearer is a conscientious objector who has performed no military service and has not worn the uniform.

Respectfully submitted,

F. P. KEPPEL,  
*Third Assistant Secretary of War.*



# STATEMENT CONCERNING THE TREATMENT OF CONSCIENTIOUS OBJECTORS IN THE ARMY.<sup>1</sup>

(Prepared by Col. JAMES S. EASBY-SMITH, Judge Advocate.)

## THE SELECTIVE SERVICE LAW.

The selective service law, (act May 18, 1917) provided:

SEC. 4. \* \* \* nothing in this act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant \* \* \*.

## CIVIL WAR CONSCRIPTION ACTS.

Looking for precedents we find that the original conscription law of the Civil War (act Mar. 3, 1863, 12 Stat. L., 731) contained no provision for the exemption, from either combatant or noncombatant military service, of religious or other conscientious objectors.

The amendatory act of February 24, 1864, (13 Stat. L., 6) provided as follows:

Members of religious denominations, who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered noncombatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of three hundred dollars to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: *Provided*, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

## BRITISH CONSCRIPTION ACTS.

The first British military service act of January 27, 1916, vested in the local tribunals power to grant exemption from military service "on the ground of a conscientious objection to the undertaking of combatant service."

The tribunals having construed this law as granting authority to exempt conscientious objectors from combatant service only, the second military service act of May 25, 1916, declared that the power to grant certificates of exemption on conscientious grounds under the principal act is in addition to and not in derogation of the general power conferred by that act to grant an absolute, conditional or temporary certificate in such cases. The second act also provided that

<sup>1</sup>All laws, regulations, orders, and reports which are not set out in full in the text of this statement are attached as exhibits.

in the case of the issuing of a certificate of exemption on the grounds of conscientious objection the same might be conditioned upon the claimant continuing in or entering into employment under a specific employer, in a specific place or establishment.

The provisions of the British acts were not limited to religious conscientious objectors, but embraced all cases of genuine conscientious objection, whether based upon religious, moral or other grounds; but the tribunals established by the acts, viz: the local tribunals, the appeal tribunals and particularly the central tribunal—the court of last resort—decided that where a conscientious objection was based purely upon political beliefs, the objection was not such as was contemplated by the law.

(See Appendix A and its exhibits and Appendix B.)

#### SELECTIVE SERVICE REGULATIONS.

The first rules and regulations for local and district boards, prescribed by the President under authority of the selective service law, promulgated June 30, 1917, provided in section 20, subparagraph (i), (Exhibit 1) for the making of claim for exemption from combatant service on the ground of conscientious objection. Where such a claim was made the rule provided that it be substantiated by affidavit proof that the claimant—

is a member in good faith and in good standing of a well recognized religious sect or organization (giving the name thereof), organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form, and that his religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization.

The rule further provided that:

In case any such person substantiates, in the opinion of the local board, his claim, such local board shall issue a certificate stating that such person shall not be required or compelled to serve in any capacity except in some capacity declared by the President to be noncombatant.

(For form or certificate provided by the regulations, see Exhibit 2.)

The rules concerning religious objectors contained in the Selective Service Regulations, effective December 15, 1917, did not differ essentially from the earlier regulations. Rule XIV, section 79 provided for the issuing of a noncombatant certificate to—

Any registrant who is found by a local board to be a member of any well-recognized religious sect or organization organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form, and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization.

The proof in support of a claim was required to be furnished in the questionnaire.

(For rule and form of certificate see Exhibits 3 and 4.)

#### STATISTICS OF CONSCIENTIOUS OBJECTORS INDUCTED INTO THE ARMY.

No statistics are available as to how many such claims were made during the first draft, from July to September, 1917; but it appears from the first report of the Provost Marshal General, dated December 20, 1917, that 3,887 such claims were allowed by the draft boards. Nor are figures available to show how many of these 3,887 religious objectors were inducted into the army during the first draft. It

does appear that prior to December 20, 1917, 561 conscientious objectors had disclosed themselves in the camps. These included not only recognized religious objectors bearing the certificates of the local boards, but many conscientious objectors on grounds other than religious who bore no such certificates. During this period there were 506,000 inductions into the Army.

It appears from the above-mentioned report of the Provost Marshal General, that this partial exemption from combatant service was not popular with the draft boards during the first draft:

A very large majority of the district boards recommend that religious objectors should not be discharged. Evidently the feeling is widespread that the religious-creed objection is in many cases not genuine. Furthermore, many boards express the belief that honest religious objection ought not to be allowed to deprive the Nation of an able-bodied defender. Many of the boards, however, which favor holding religious objectors to military service express the opinion that those whose objection seems genuine should be assigned to noncombatant service.

It also appears from this report that:

Some boards treat religious and conscientious objectors as one class, and say that, when found to be honest, they might well be assigned to noncombatant service.

From the second report of the Provost Marshal General which covers the whole period of the administration of the selective-service law from its enactment May 18, 1917, to December 20, 1918, and further subsequent data furnished by the boards but not included in the second report of the Provost Marshal General, it appears that there were 64,693 claims made for noncombatant classification, of which 56,830 were recognized by the boards. Of these, 29,679 were classified in class 1 and found physically fit for general military service of whom 20,873 were inducted into the service from the beginning of mobilization to the termination thereof on November 11, 1918. During the entire period of the draft the total number of inductions into the Army was 2,810,296.

No statistics are available as to the number of religious or other conscientious objectors who made no claims before the local boards or whose claims were rejected by the boards and who were inducted, but there was undoubtedly a substantial number of such objectors inducted into the army.

So far as statistics are available it appears that only about 4,000 men inducted into the military service made any claim in camp, either by presentation of a certificate or otherwise, for exemption from combatant service or from all military service. It would therefore appear that more than 80 per cent of religious objectors whose claims were recognized by the local boards and who were furnished with noncombatant certificates changed their minds before or shortly after reaching camp and failed to claim the advantage of exemption from combatant service. Undoubtedly this was due in large measure to the character of treatment prescribed by the order of the Secretary of War of October 10, 1917.

#### EARLIER ORDERS GOVERNING TREATMENT OF CONSCIENTIOUS OBJECTORS.

After mobilization began in September, 1917, one of the earliest questions concerning the treatment of conscientious objectors in camp arose out of the refusal of the Mennonites (whose religious



objection had been recognized by the local boards and who had been furnished with noncombatant certificates) to put on a uniform; and under date of September 25, 1917, the Secretary of War directed the issuing of an order (Exhibit 5) directing that Mennonites "be not forced to wear uniforms as the question of raiment is one of the tenets of their faith."

On October 10, 1917, a confidential order was issued, whereby the Secretary of War directed (1) that conscientious objectors be segregated and placed under the supervision of instructors, specially selected with a view of insuring that the objectors will be handled with tact and consideration: (2) that these men, in their attitude of objecting to military service be not treated as violating military laws, thereby subjecting themselves to the penalties of the Articles of War, but that their attitude be quietly ignored and that they be treated with kindly consideration. Reference was made to the fact that a number of conscientious objectors in a division, when treated in the above-described manner, renounced their original objections and voluntarily offered their best efforts to the service as soldiers. (3) It was directed that reports of the action taken and of the results obtained be submitted by the division commanders. (See Exhibit 6.)

It was strictly enjoined that the instructions contained in this order be not given to the newspapers.

The purpose of making the foregoing and certain other orders hereinafter mentioned confidential is apparent, viz: that had they been made public at the time they would undoubtedly have been the means of creating a large number of insincere objectors.

Supplementing the foregoing instruction, an additional confidential order was issued on December 19, 1917 (Exhibit 8), by which the Secretary of War "directs that until further instructions on the subject are issued 'personal scruples against war' should be considered as constituting conscientious objections," and that such persons should be treated in the same manner as other conscientious objectors under the instructions of the confidential letter of October 10, 1917.

Under a further order, dated March 11, 1918 (Exhibit 10) commanding generals were informed that the instructions of October 10 and December 19, 1917, concerning the segregation of conscientious objectors "should not be construed as requiring the mingling in one group of different classes of conscientious objectors, who, for the good of the service, may better be kept apart."

This order was also confidential.

By order of March 6, 1918 (Exhibit 9), it was ordered that a psychological examination of all conscientious objectors be made and report thereon furnished to the Secretary of War; and that reports be made to him of all trials by courts-martial; and by order of April 10, 1918 (Exhibit 12), it was directed that, when necessary, psychiatric examination be made and that "in all cases where psychiatric specialists recommend the discharge from the service of such men for mental deficiency or derangement, their discharge for the good of the service is authorized."

## THE PRESIDENT'S EXECUTIVE ORDER.

The President, on March 20, 1918, issued an Executive order (subsequently published by the War Department as General Orders No. 28, March 23, 1918, Exhibit 11), declaring what is noncombatant service and defining the policy of the President in regard to conscientious objectors.

Summarized, the Executive order provides as follows:

Paragraph 1 quotes section 4 of the selective service law and declares certain service (*a*) in the Medical Corps, (*b*) in the Quartermaster Corps, and (*c*) in the Engineer Service as noncombatant.

Paragraph 2 provides for two classes of conscientious objectors, i. e., those (*a*) who have been certified by their local boards to be members of a religious sect or organization as defined in section 4 of the act of Congress; (*b*) who object to participation in war because of conscientious scruples but who have not received such certificates from their local board and directs the assignment of these men to noncombatant service to the extent they are able to accept such service without violation of "the religious or other conscientious scruples by them in good faith entertained." Commanding officers are directed through a tactful and considerate officer to present the provisions of this order to such persons; explain the character of noncombatant service defined and secure acceptance thereto, and upon acceptance, to give a certificate preventing the transfer of such person to any other form of noncombatant service without his consent, and recommends, whenever feasible, assignment to the Medical Department.

Paragraph 3 provides for a monthly report on all persons professing conscientious objections who are unwilling to accept noncombatant service with the reasons therefor. The Secretary of War will then classify these persons and give further directions as to their disposition. Pending such directions, however, it is provided that declinants of assignment to noncombatant service shall be segregated under the command of an officer of tact and judgment who will be instructed to impose no "punitive hardship" upon them but not to allow their objections to be the basis of any consideration beyond exemption from "actual military service."

Paragraph 4 recommends uniformity of penalties in sentences of courts-martial under the sixty-fourth and sixty-fifth articles of war and prescribes confinement in the United States Disciplinary Barracks but not in a penitentiary except in cases of desertion.

Paragraph 5 provides for revision of sentences of courts-martial imposed prior to this order by the Secretary of War, with a view to their remedy by the President, if found at variance therewith.

## INTERPRETATIONS OF EXECUTIVE ORDER.

On April 18, 1918, the Secretary of War construed the President's Executive order in effect that conscientious objectors accepting noncombatant service should not be required to bear side-arms. (See Exhibits 13 and 14.)

Referring to the provision in the third paragraph of the Executive order that no "punitive hardship" shall be imposed upon conscientious objectors and to similar provisions in the order of June 1, 1918



(Exhibit 16), and the order of July 30, 1918 (Exhibit 20), the Secretary of War in a memorandum to the Judge Advocate General on August 30, 1918, in response to a request from the Judge Advocate General for an interpretation of the term said:

The words "punitive treatment" were not intended to embrace punishment imposed by a regularly constituted court-martial, but merely to prohibit the disciplinary punishment which might otherwise be imposed without trial. Conscientious objectors are subject to trial by court-martial as are other members of the military establishment.

By an order dated April 27, 1918 (Exhibit 15), the Secretary of War directed that any man classed as a conscientious objector on account of religious belief or personal scruples, (a) whose attitude in camp is sullen and defiant, (b) whose sincerity is questioned, (c) who is active in propaganda, should be promptly brought to trial by court-martial.

#### THE FURLOUGH LAW.

In the meantime the following furlough law was enacted and approved on March 16, 1918:

AN ACT To authorize the Secretary of War to grant furloughs without pay and allowances to enlisted men of the Army of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever during the continuance of the present war in the opinion of the Secretary of War the interests of the service or the national security and defense render it necessary or desirable, the Secretary of War be, and he hereby is, authorized to grant furloughs to enlisted men of the Army of the United States with or without pay and allowances or with partial pay and allowances, and, for such periods as he may designate, to permit said enlisted men to engage in civil occupations and pursuits: *Provided*, That such furloughs shall be granted only upon the voluntary application of such enlisted men under regulations to be prescribed by the Secretary of War.

In response to a request for an expression of opinion concerning the extension to conscientious objectors of the provisions of the furlough act, the Acting Judge Advocate General on May 31, 1918, advised the Secretary of War as follows:

If the Secretary of War, in the exercise of his honest discretion, determines that the good of the service and the national security and defense make it necessary or desirable that these conscientious objectors be furloughed to enable them to engage in civil occupations, he is of course authorized to make regulations providing therefor. Since no furlough can be granted except on the voluntary application of the enlisted man, and since the furlough is to be granted under regulations prescribed by the Secretary of War, a soldier who accepts a furlough applied for under such regulations thereby consents to the conditions in such regulations imposed. It is, of course, extremely difficult to justify any distinction in the regulations governing the furlough of conscientious objectors and those governing other furloughs. But, if the Secretary, in the exercise of his discretion, determines that the good of the service and the national defense require such distinction, and if a conscientious objector accepts a furlough under regulations which are carefully framed in accordance with the suggestions hereinafter set out, it is difficult to see how the validity of such a furlough or the validity of the contract between the employer and the furloughed soldier could be successfully attacked.

The Judge Advocate General had also, on April 4, 1918, expressed the following opinion concerning the liability of conscientious objectors for evading draft:

A conscientious objector is under the same duty as other drafted men to obey the order of the local board to appear and submit to physical examination and to report for duty. If he was, in fact, inducted into the military service by the local board

through proper order and failed to report for duty as ordered, he became a deserter and may be proceeded against and punished as such. The provisions of the Executive order of March 21, 1918, relating to the treatment of conscientious objectors, were not intended to, and do not, protect a draft deserter from trial and punishment for his offense. It was thereby intended to provide a method of dealing with men who had responded to the draft and had been inducted into the military service in an orderly manner, and who had in good faith professed conscientious objections to engaging in combatant military service. (Ops. J. A. G. 327.3, Apr. 4, 1918.)

This opinion was given practical effect by the provision included in the orders of June 1 and July 30, 1918 (Exhibits 16 and 20), that:

No man who fails to report at camp in accordance with the instructions of his local board \* \* \* is entitled to the treatment outlined above.

#### ORDERS CREATING BOARD OF INQUIRY, PROVIDING FOR FURLOUGHS AND SUPPLEMENTING PREVIOUS ORDERS.

On June 1, 1918, an order was issued (Exhibit 16), further defining the procedure to be taken in regard to conscientious objectors and the treatment to be accorded to them.

This order was subsequently rescinded and the order of July 30, 1918 (Exhibit 20), more comprehensive, was substituted. It was by this order of June 1, 1918, however, that the board of inquiry on conscientious objectors was organized, consisting of Maj. Richard C. Stoddard, judge advocate, chairman (who was succeeded about August 15, 1918, by Maj. Walter G. Kellogg, judge advocate); Judge Julian W. Mack, United States circuit judge; and Dean Harlan F. Stone, of the Columbia University Law School. This order also first authorized the furloughing of conscientious objectors for agricultural service.

On June 10, 1918, a confidential order was issued (Exhibit 17) authorizing the board of inquiry to recommend in exceptional cases furlough of conscientious objectors for the purpose of engaging in industrial occupations as well as in agricultural work.

On June 10, 1918, an order was issued (Exhibit 18), referring to the order of June 1 and authorizing the board of inquiry to visit camps and cantonments for the purpose of examining conscientious objectors who have not been court-martialed and are not under charges, and, with the consent of the camp commander, such also as are under charges and have not yet been brought to trial. It also provided for furloughs to be issued by the commanding officers pursuant to the recommendations of the board of inquiry. It contains specific provisions for the procedure in the matter of conscientious objectors recommended for furlough.

Under date of June 14, 1918, a confidential order was issued (Exhibit 19) authorizing the censoring of the mail of conscientious objectors, and the refusing of access of political visitors to conscientious objectors.

The order of June 1, 1918 (Exhibit 16), had directed that all conscientious objectors "now segregated in posts and camps \* \* \* shall be transferred to Fort Leavenworth, Kans.," but by a subsequent order of July 20, 1918 (Exhibit 19a) Fort Riley, Kans., was substituted for Fort Leavenworth.

On July 30, 1918, an order was issued (Exhibit 20), taking the place and supplementing the orders of June 1 and 10 and containing detailed

instructions of the Secretary of War as to the procedure to be adopted toward, and the treatment to be accorded to, conscientious objectors.

Summarized, the order of July 30 provided as follows:

Paragraph 1 rescinds order of June 1, 1918, and substitutes this order.

Paragraph 2 construes paragraph 2 of the Executive order as giving the opportunity to men professing conscientious objections to select forms of service designated as noncombatant; instructs commanding officers to assign conscientious objectors deemed to be sincere to the service for which they apply and the giving to them of certificates of exemption for combatant service; and authorizes the trial by court-martial of men declining to accept noncombatant service (*a*) whose attitude in camp is defiant, (*b*) whose cases in the judgment of the camp commander should not await investigation by the board of inquiry, (*c*) who are active in propaganda.

Paragraph 3 provides for the furlough or transfer to other stations of men professing conscientious objections now segregated, who, although refusing to obey military orders on the ground of conscientious scruples, religious or other, give no other cause of criticism of their conduct or have been acquitted by court-martial.

Paragraph 4 provides for the same procedure outlined in paragraph 3 for conscientious objectors reporting at camps in the future.

Paragraph 5 provides for segregation and examination by the board of inquiry in cases where the Secretary of War disapproves the findings of court-martial.

Paragraph 6 designates personnel of board of inquiry (the same as named in the order of June 1) and provides for the examination by this board of all men professing conscientious scruples against warfare, except those under charges or being tried by court-martial, and the assignment of men so examined either to noncombatant service or to furloughs upon the recommendation of the board, and sets forth certain rules regulating furloughs and their termination.

Paragraph 7 further defines the function of the board of inquiry and directs commanding officers to assign these men, found by the board to be insincere as to combatant service, to any military service.

Paragraph 8 authorizes furloughs in exceptional cases to the Friends' reconstruction unit in France.

Paragraph 9 designates reconstruction hospitals as a special class of noncombatant service.

Paragraph 10 provides that attention of men examined by board of inquiry be especially directed to service in the reclamation branch of the Quartermaster Corps.

Paragraph 11 provides that any man refusing noncombatant service or furlough after recommendation therefor by the board, or whose furlough shall be terminated, shall be required to perform such noncombatant service as may be assigned to him, and shall be tried by court-martial for his refusal to perform the service assigned.

Paragraph 12 provides that "pending the final decision in each case as to the disposal of these men" the directions of the Secretary of War as to their treatment remain in force, and are to be taken as authoritative interpretations of paragraph 3 of the Executive order of March 20, 1918, and are summarized as follows:

(*a*) As a matter of public health, every man in camp, regardless of his military status, shall keep himself and surroundings clean, his body



in good condition through exercise, and those men declining to perform military service shall prepare their own food.

(b) Any drafted man arriving at camp who records himself as a conscientious objector shall not be compelled to wear a uniform or bear arms, nor, if pending the final decision as to his status he shall decline to perform, under military direction, duties which he states to be contrary to his conscience, shall he receive punitive treatment for such conduct. He shall be required to furnish the necessary information to complete his records of induction, but will be informed that his status will not be prejudiced thereby.

(c) No man who fails to report to camp as ordered by the local board, or, on arrival, fails to report himself as a conscientious objector, is entitled to the treatment outlined.

(d) Recognizes no distinction between service in this country and service abroad.

Paragraph 13 announces that further regulations for the administration of furloughs are being formulated.

By order of September 21, 1918 (Exhibit 24), the United States Disciplinary Barracks, Fort Leavenworth, Kans., was designated as the place of confinement of conscientious objectors sentenced to confinement in a disciplinary barracks.

On October 2, 1918, the Secretary of War directed the issuing of an order of that date (Exhibit 26), calling attention to the fact that under the terms of the selective-service law men who professed conscientious objections to combatant service will be called to the colors. Attention is further called to the Executive order of the President of March 20, setting out the policy with respect to the administration of the law in this respect and to the order of July 30. It was stated there was a wide divergence in the manner in which conscientious objectors were being treated in different camps, and it was directed that if a man brings evidence from his local board or other reputable source of his religious conscientious objection, it is not the intention of the President's Executive order or the instructions issued by the Secretary of War that he should be treated, pending examination by the board of inquiry, as if his insincerity and cowardice had already been established.

It is not intended or desired that they be pampered or accorded special privileges in any respect not covered by existing instructions; on the other hand, they should not be treated, as in a few cases they have been, as men already convicted of cowardice and deceit. It is the experience of the Department that a tactful attitude toward these men has in many cases resulted in their acceptance, either of noncombatant, or in many cases combatant service, whereas a hectoring and abusive attitude has had an opposite effect.

The order announces that plans are under way for the enlargement of the board of inquiry so that it will be possible to have conscientious objectors examined more promptly.

The foregoing order was also issued under date of October 5, 1918, as War Department Circular No. 4.

On November 1, 1918, War Department Circular No. 45 (Exhibit 27) was issued authorizing the extension for not more than six months of farm furloughs for conscientious objectors.

War Department Circular No. 94, of November 27, 1918 (Exhibit 28), regulated the earnings of furloughed conscientious objectors as follows:

All employers of conscientious objectors, furloughed to farm or other labor, will be required to submit to the camp, post, or station commander granting the furlough a statement showing the current rate of wages paid for labor in his or her vicinity and thereafter shall be instructed to pay to the soldier only the amount of his pay as a private soldier (plus the value of his rations if not furnished in kind) and that the difference, if any, between this pay and the current rate of wages shall be remitted direct to the camp, post, or station commander or an officer designated by him for this purpose.

Further, that all funds accruing from this source shall be transferred, at such times during each month as may be convenient, to the assistant treasurer, American Red Cross, Washington, D. C., and receipts obtained therefor.

#### PUBLIC STATEMENT BY THE THIRD ASSISTANT SECRETARY OF WAR.

A public statement by Third Assistant Secretary of War F. P. Keppel, describing the War Department's policy regarding conscientious objectors, was issued through the Committee on Public Information, September 28, 1918, and is appended hereto as Exhibit 25. Mr. Keppel was from the beginning in direct charge, under the Secretary of War, of all matters relating to conscientious objectors.

#### DISCHARGE OF CONSCIENTIOUS OBJECTORS EXAMINED AND CLASSIFIED.

As will more fully appear hereafter, the board of inquiry personally examined nearly all conscientious objectors in the Army (except those, about 1,700 in number, who voluntarily accepted noncombatant service or were granted furlough without examination by the board); and classified them into 11 groups. Group 1 (*a*, *b*, and *c*) and group 2 (*a*, *b*, and *c*) were those found to be genuine or sincere in their objections.

Groups (or classes) 1 and 2 and their subgroups are as follows:

Group 1*a*. Those who are sincere conscientious objectors on religious grounds and should be granted furlough for farm or industrial work.

Group 1*b*. Those who are sincere conscientious objectors on non-religious grounds and should be granted furloughs for farm or industrial work. (Only 4 objectors were so classified.)

Group 1*c*. Those who are sincere conscientious objectors on religious grounds and should receive furlough for work in the Friends' reconstruction unit.

Group 2*a*. Those who are sincere conscientious objectors as to combatant service, but not as to noncombatant service and should be assigned to some branch of noncombatant service.

Group 2*b*. Sincere conscientious objectors as to combatant service who have expressed their willingness to undertake and should be assigned to noncombatant service.

Group 2*c*. Sincere conscientious objectors who are willing to accept work in hospitals devoted to rehabilitating injured soldiers for civilian life and should be assigned to this noncombatant work.

Shortly after demobilization was begun the Secretary of War directed the issuing of two orders concerning the discharge from the Army of certain conscientious objectors in groups (or classes) 1 and 2. These orders were issued November 29 and December 11, 1918, as War Department Circulars Nos. 97 and 135. (Exhibits 29 and 30.)

The order of November 29 directed that conscientious objectors classified in groups 1*a* and 1*c* should be discharged; that if there be



any doubt as to the classification of an objector who did not appear before the board of inquiry he be retained for such examination; that for the present all men on furlough be recalled only after consultation with the employer, and after being recalled be discharged; that Form 526 Adjutant General's Office be used for the discharge of class 1*a* and 1*c* objectors and that there be inserted in the place for the statement of the reason for discharge the following:

This is a conscientious objector who has done no military duty whatsoever, and who refused to wear a uniform.

The form of discharge (526) mentioned in this order is neither an honorable nor dishonorable discharge, but is the simple discharge, familiarly known as the "blue ticket" (the honorable discharge being white and the dishonorable discharge yellow in color). See Exhibit 30*a*.

The order of December 11 amended the foregoing order of November 29 by extending its provisions to class 1*b* objectors, and by providing that class 2 objectors who have not yet been assigned to non-combatant service be discharged on receipt of instructions from The Adjutant General based on reports of the board of inquiry or on future reports of commanding officers.

#### STATISTICS OF DISPOSITION OF CONSCIENTIOUS OBJECTORS IN CAMP.

As heretofore stated, 20,873 registrants to whom the local boards had issued noncombatant certificates as religious objectors, and in addition thereto a large but unascertainable number of alleged conscientious objectors who had not received such certificates from the local boards, were inducted into the Army from the beginning of the draft until the termination of mobilization; of whom only 3,989 (out of a grand total of 2,810,296 inducted men) made any claim in camp for exemption from any form of military service as conscientious objectors on religious or other grounds.

Upon arrival in camp men bearing noncombatant certificates of the local boards, and also men who did not bear such certificates but who claimed to be conscientious objectors, were examined and many were assigned to either combatant or noncombatant service. Those who refused to accept the combatant or noncombatant service to which assigned after such examination or whose sincerity or status had not been determined, were segregated in camp to await examination by the board of inquiry, or were court-martialed.

The board of inquiry between June, 1918, and January, 1919, examined a total of 2,294 alleged conscientious objectors and determined that 1,978 were sincere either as to combatant or noncombatant service, and made the following recommendations, viz:

For furlough to agriculture or industry.....	1,500
For furlough to Friends' reconstruction unit, France.....	88
For assignment to noncombatant service.....	390
Total.....	1,978

The remaining 316 either were found to be insincere or no final classification was made before demobilization was begun. One hundred and twenty-two found not to be sincere were recommended for and assigned to combatant service.

The disposition of the 3,989 men who claimed exemption at camp on account of religious or other conscientious objection were disposed of as follows (some of the figures being nearly but not exactly accurate):

Originally accepted, or were assigned to, noncombatant service.....	1, 300
Furloughed to agriculture.....	1, 200
Furloughed to Friends' reconstruction unit, France.....	99
Class 1 remaining in camp after the armistice.....	715
Class 2 remaining in camp after the armistice.....	225
General court-martial prisoners.....	450
Total.....	3, 989

From the foregoing it appears that of the 3,989 inducted men who claimed exemption at camp, about 2,600—about equally divided—went into noncombatant service and on furlough. About 1,000 or more than 70 per cent of those who went into noncombatant service did so voluntarily and without examination by the board of inquiry. Nine hundred and forty found by the board of inquiry to be sincere in their objections remained in camps unassigned at the time of the armistice and 504 were court-martialed.

The class 1 and class 2 objectors remaining in camps after the armistice were discharged in accordance with the orders of November 29 and December 11, 1918. (Exhibits 29 and 30.)

In January, 1919, the board of inquiry examined a large number of prisoners serving court-martial sentences and recommended clemency in behalf of the 113 as hereafter set out in detail. The board of inquiry also furnished as a result of its more recent examinations a number of reports for the information and advice of the Secretary of War and the special clemency board concerning prisoners who are still in confinement.

#### STATISTICS OF COURT-MARTIAL CASES OF CONSCIENTIOUS OBJECTORS.

From the beginning of the draft to the present time (June 7, 1919), there were 504 trials by general court-martial of conscientious objectors, principally for disobedience of orders and desertion. Some, but a small proportion of the cases, involved disloyalty, sedition, and propaganda. The general results of the trials were as follows:

Tried by courts-martial.....	504
Acquitted.....	1
Convicted and sentenced.....	503
Disapproved:	
By reviewing authority.....	3
On the recommendation of the Judge Advocate General.....	50
	53
Effective sentences.....	450

Of these 113 were granted clemency on January 17, 1919, as hereafter related. The remaining cases have been or are now being acted upon by the clemency board in the Office of the Judge Advocate General in accordance with the policy hereafter described.

Detailed information concerning the character of sentences imposed and the action of the reviewing authorities thereon will be found tabulated in Exhibit 31.

## EXERCISE OF CLEMENCY ON BEHALF OF CONVICTED CONSCIENTIOUS OBJECTORS.

Paragraph 7 of section 2 of the act of March 4, 1915 (38 Stat. L., 1074), provides that:

Whenever he shall deem such action merited the Secretary of War may remit the unexecuted portions of the sentences of offenders sent to the United States Disciplinary Barracks for confinement and detention therein and in addition to such remission may grant those who have not been discharged from the Army an honorable restoration to duty, and may authorize the reenlistment of those who have been discharged or upon their written application to that end order their restoration to the Army to complete their respective terms of enlistment, and such application and order of restoration shall be effective to revive the enlistment contract for a period equal to the one not served under said contract.

Under the orders of June 1 and 10 and July 20, creating the board of inquiry on conscientious objectors, and defining its authority, this board was limited in its personal examination of conscientious objectors to those who had not been convicted by courts-martial.

After it had personally examined and reported upon a large number of objectors the board of inquiry was requested to and did examine the records of courts-martial in a large number of cases and submitted its first reports with the following letter dated October 31, 1918, signed by Judge Mack and Dean Stone.

OCTOBER 31, 1918.

DEAR MR. SECRETARY: We are transmitting to you under separate cover our review of court-martial records in the form of separate reports, based on a classification which we have made of the several cases.

These reports cover all of the cases transmitted to us except that of Brent D. Allison. In his case, we are awaiting a copy of the report of the judge advocate's board of review.

Mr. Keppel requested us to examine these cases and to give you our frank judgment thereon. We appreciate fully the weight to be attached to the deliberate conclusions of the reviewing authorities in the Judge Advocate Department, and we have most carefully considered their reports. But in many, if not most, of the cases, we are unable to concur in their recommendations.

There are many more court-martial cases, similar to each of the several classes submitted to us. We are, of course, ready to examine these, if you so desire. In any event we strongly recommend that they be taken up promptly for final determination.

Respectfully,

JULIAN MACK.  
HARLAN F. STONE.

Hon. NEWTON D. BAKER,  
*Secretary of War.*

Twelve separate reports accompanied this letter and consisted of comments and recommendations based upon an examination of the court-martial records in 98 cases, in none of which the board of inquiry had had an opportunity to examine the prisoner in order to determine the genuineness of his alleged conscientious objection. In nearly all the cases the recommendation was made that the board of inquiry be given an opportunity to examine the prisoners, coupled with the further recommendation that every such prisoner found upon personal examination to be genuine in his conscientious objection be offered assignment to noncombatant service or furlough, as the facts might warrant, and in the event of acceptance that the unexecuted portion of the existing sentence be remitted. In some cases it was recommended that no leniency or clemency be exercised. No recommendation contemplated any action beyond the exercise



of clemency and the extension of the established treatment of conscientious objectors to the individual found by the board to be sincere.

The general form of the favorable recommendation was:

We recommend that each of the above-mentioned defendants be examined by the board of inquiry, and, if found to be conscientious objectors, they be given opportunity to apply for the farm furlough, and that in that event, their sentence be remitted.

The letter and separate reports were submitted to the Judge Advocate General's Department, and under date of November 16, 1918, the Acting Judge Advocate General wrote a letter to the Chief of Staff in which, besides discussing the several individual cases, he commented as follows:

The letter of October 31, 1918, to the Secretary of War, transmitting this report, shows a misunderstanding of the proper functions of the Office of the Judge Advocate General in its review of records of general courts-martial. Its sweeping statement of disapproval of what is termed "recommendations" of this office requires some comment.

The letter contains the following:

"We appreciate fully the weight to be attached to the deliberate conclusions of the reviewing authorities in the Judge Advocate department, and we have most carefully considered their reports. But, in many, if not most, of the cases we are unable to concur in their recommendations."

This courteously worded, but ill-advised statement, when taken in connection with the detailed report, very apparently overlooks the patent fact that this office, in its review of records of courts-martial, does not "recommend" either changes in the established law, or in the announced policies of the War Department, but, on the other hand, is concerned solely with the question of the legality of the findings and sentence in each case and, in its determination of this legality, is confined to the law as of the date of the offense, and that its province, in matters of policy, is only to ascertain as to whether the defined policies of the War Department, as they have been promulgated and announced, have been complied with.

An examination of the detailed report shows that of the 98 cases embraced therein, the action of this office is concurred in, as to its construction of the law and the regulations of the War Department, in 42 cases, and criticized in 56, and in practically all of the cases the report recommends procedure either such as to require the adoption of entirely new regulations or so futile as to be impossible of accomplishment. These recommendations of Judge Mack and Dean Stone in general fall into two classes:

(a) That a policy be adopted to make the provisions of the Executive order and the related instructions of the Secretary of War retroactive, to embrace the cases of those men whose offenses were committed before these regulations were issued, and whose sentences have now been executed.

(b) That, in the event of this policy being adopted, such men be brought before the board of inquiry for examination, and if now found to be sincere that they be given an opportunity to apply for farm furloughs, a recommendation that would in effect require the issuance of a new regulation abrogating paragraph 3 of the letter of The Adjutant General of June 10, 1918, which gives power to the board of inquiry to examine only those men "who have not been court-martialed" and paragraph 8 of the letter of July 30, 1918, which specifically excepts from investigation by this board "those under charges or being tried by court-martial."

It is also to be noted in regard to this recommendation that in all but one of these cases in which recommendations were made (John U. Schmidt, C. M. No. 113948) the sentence includes dishonorable discharge; that these sentences have not been executed, and that, in many of them, the record was reviewed in this office under the provisions of G. O. 7, W. D., 1918, where the dishonorable discharge was not suspended. Upon the release from confinement of the men falling within this latter class, either by the completion of the term thereof or by a remission, by way of clemency, of the unexpired portion, they would, in view of the executed sentence of dishonorable discharge, be entirely out of the service, and in consequence it is difficult to comprehend by what authority the board of inquiry could thereafter secure jurisdiction over these men, or take any action in regard to them that would be enforceable. \* \* \*

Questions involving the credibility of witnesses and the weight of evidence are peculiarly for the trial court, and findings and sentences should not be disapproved simply because, from the printed record, this office might reach a different conclusion upon these questions. It also appears from the report that the accused and his counsel

through failure to interpose "effective objections," permitted the introduction of incompetent and immaterial testimony, but it is difficult to see how this fact could warrant this office in disapproving the findings and sentence, particularly as it does not appear that the evidence regarded as improper influenced or tended to influence the court in determining that the accused had made the statements alleged. \* \* \*

I think it my duty to ask the department to consider this report of the board of inquiry on conscientious objectors in the light of first principles which lie at the base of military justice, the discipline of the Army and its integrity, and to that extent involving the safety of this country. Viewed in such a light, that report should neither influence me as acting head of the Bureau of Military Justice nor, in my judgment, the action of the department. The inquiry of this board, in so far as it differs with courts-martial upon matters falling within their jurisdiction, passes beyond the scope of all functions which properly could have been assigned it. The views, extra legal reviews of the board, differ with the constituted military tribunals upon matters of law which by law have been placed within the judgment of those tribunals for decision, which have been decided by them, and which have been reviewed by the only authorities lawfully competent to review them. Those decisions are as a matter of law final, and are entitled to as much respect as the decisions of any court in the land (*Grafton v. U. S.*, 206 U. S., 333) both as a matter of law and as a matter of fair regard for honestly administered institutions. It is entirely clear to me that the reviews by the board are the administrative difficulties in dealing with the problem of conscientious objectors, but if such persons are to be excused, surely it ought to be done in an orderly way, by withholding them from trial or by extending to them the pardoning power, and not through manipulation of tribunals of justice to that end.

This report of the board is regrettable. It strikes at the foundation of justice, for it must not be forgotten that courts-martial are courts of justice in every sense of that term. As said by the Supreme Court of the United States in *Runkel v. U. S.* (122 U. S., 558):

"The whole proceeding (of court-martial) from its inception is judicial. The trial, findings, and sentence are the solemn acts of a court organized and conducted under the authority and according to the prescribed forms of law. It sits to pass upon the most sacred questions of human rights that are ever placed on trial in a court of justice; rights which, in the very nature of things, can neither be exposed to danger nor subjected to the uncontrolled will of any man, but which must be judged according to law."

The board of inquiry on conscientious objectors consists of three members, Maj. Walter Guest Kellogg, of this office, chairman; Judge Julian W. Mack; and Dean Harlan F. Stone. The reports in question and the letter accompanying them addressed to the Secretary of War are signed by Judge Mack and Dean Stone only. I am advised by Maj. Kellogg that, being an officer of this department and having reviewed some of the cases involved and many similar cases while in this office, before becoming chairman of the board, he declined to take part either in the examination of the records or in the report rendered thereon.

On December 8, 1918, the Secretary of War sent to the Chief of Staff the following memorandum:

WAR DEPARTMENT,  
Washington, December 8, 1918.

Memorandum for the Chief of Staff:

I have examined the attached papers and am entirely in accord with the views expressed by the Acting Judge Advocate General and the War Plans Division so far as these views assert the integrity of action by courts-martial and the necessity of maintaining confidence in courts-martial, both on the part of the military establishment and the public. Indeed, my whole experience in reviewing the action of courts-martial persuades me that they are singularly disinterested, and their judgments conscientiously expressed. The question presented, however, is entirely different from the arguments which are advanced, and the disposition of the matter does not necessitate any contravention of these wise and salutary views.

The so-called conscientious objectors present a novel problem in military administration. To some extent the novelty and difficulty of this problem was recognized by the Congress, which made express provision for a part of the general class. However, when the law came to be administered it was found that only certain varieties of religious experience had been adequately provided for, and that other varieties of religious obligation and the whole class of conscientious objection based upon ethical considerations and not directly associated with formal religious beliefs was unprovided for. The President, as Commander in Chief of the Army, thereupon laid down a definite policy for the administration of the law, and the discipline of those called to



the service who were affected by any of these forms of conscientious objection not specifically included within the limits of the statute.

Because of the novelty of the question, and the difficulty of conveying explicitly the directions of the President to the widespread and scattered military organization, a number of cases have arisen in which that direction has not been complied with. Moreover, the order of the Commander in Chief on this subject came after a number of cases had been disposed of upon an entirely different theory. In addition to this it not unnaturally happened that as the administration of this principle proceeded, larger experience led to modifications of the practice. The net result of the whole situation is that we have among this group of people some who have been subjected to one theory of discipline, another large group who have had the benefit of the principle as modified by the fullest experience, and between these two groups, persons who have been caught by the principle in process of modification, and instead of having military discipline administered in a uniform and consistent way, for which the Judge Advocate General so properly pleads, we have a variegated and spasmodic ad personam application of that phase of the principle either uppermost at the time, or believed to be uppermost by the particular tribunal which undertook to apply it.

To permit such a result to continue would, of course, be discreditable to the entire system of military justice, as well as at variance with the positively expressed wishes of the President as Commander in Chief. Fortunately, we are not obliged to continue the results of such a system. The Secretary of War, acting for the President, has the final power of review and of clemency. Therefore, all the power necessary to correct any inequality in the application of the law and the executive order is in the Secretary of War. If the Secretary of War had time he would personally interview each of the persons in this class, or by assembling all the records in the cases would attempt personally to see that uniformity of procedure and principle obtained. To aid him in this task he has secured the cooperation of Dean Stone and Judge Mack, whose peculiar qualifications for the task are obvious. The results of their inquiries are laid before the Secretary for the information of his judgment, and are in no sense an extra-judicial review of any action of the constituted military authorities. I desire, therefore, to have Judge Mack and Dean Stone continue the inquiry, as suggested, by their seeing all records of courts-martial in these cases, and being permitted to have access to all persons in this class whom they may elect to see in order that their work may be comprehensive, and that I may have a complete survey of the entire case. Needless to say this course implies no sort of desire on my part to underestimate the solid ability and high-mindedness with which the several courts-martial have acted, or the various members of the military establishment who reviewed the action in the several cases.

NEWTON D. BAKER,  
*Secretary of War.*

In pursuance of the Secretary's instructions an order was issued on December 21, 1918 (Exhibit 32), directing the Judge Advocate General to continue to furnish to Judge Mack and Dean Stone "all records pertaining to the cases of conscientious objectors convicted of military offenses as such"; and on the same day an order was issued (Exhibit 33) permitting them to personally interview and examine conscientious objectors serving sentences.

On January 7, 1919, the board of inquiry submitted the following report:

JANUARY 7, 1919.

Hon. NEWTON D. BAKER,  
*Secretary of War.*

The undersigned members of the board of inquiry on conscientious objectors pursuant to the request of the Secretary of War, proceeded to the United States Disciplinary Barracks at Fort Leavenworth, Kan., on the 4th day of January, 1919, and there personally examined prisoners claiming to be conscientious objectors detained in the Disciplinary Barracks. For that purpose, sessions were held by undersigned as follows: On January 4th, two sessions, afternoon and evening; on January 5, three sessions, morning and afternoon. In the course of said sessions, the undersigned personally examined the men whose names hereinafter appear in two groups.

Group 1 includes those men whom the board of inquiry has heretofore examined and classified as 1, that is to say, men who are found to be conscientious in their objections, both to combatant and noncombatant service in the Army. Thereafter these men

were placed on trial by court-martial and sentenced for terms of imprisonment in Disciplinary Barracks. They have never had opportunity to apply for the farm furlough in accordance with the recommendations of the board of inquiry. The undersigned have examined the court-martial records in the case of each of these men and in the opinion of the undersigned, clemency should be promptly exercised in their cases.

Group 2 includes those men who claim to be conscientious objectors who were not brought before the board of inquiry for examination prior to their court-martial conviction and sentence to Disciplinary Barracks. The undersigned having now examined them report that in their opinion these men are conscientious in their objections, both to combatant and noncombatant service in the Army, and that they would have been so classified by the board of inquiry had they been examined by the board. The undersigned have examined the court-martial records in the case of each of these men, and in the opinion of the undersigned, clemency should be promptly exercised in their cases.

(Here follow 113 names, 30 in group 1 and 83 in group 2.)

Respectfully submitted.

JULIAN MACK.

HARLAN F. STONE.

Of the 113 conscientious objectors included in the foregoing report and recommendation, 43 were men who had been mentioned and whose cases had been discussed in the 12 separate reports of the board of inquiry dated October 31, 1918, above referred to. The other 70 were persons whose court-martial records were examined by the board of inquiry subsequent to October 31, 1918, and who were personally examined by the board in January, 1919.

This report was forwarded by the Secretary of War to the Chief of Staff with the following memorandum of instructions, dated January 16, 1919.

WAR DEPARTMENT,  
*Washington, January 16, 1919.*

Memorandum for the Chief of Staff:

Pursuant to the request made in my memorandum to you of December 8, Judge Mack and Dean Stone have personally examined and reported to me regarding certain of the conscientious objectors now serving court-martial sentences. Group 1 of these men have heretofore been recommended by the board of inquiry for furlough, but because of the pressure of other work and the resulting delay in making the plan for farm furlough thoroughly effective throughout the country, the men in this group missed the opportunity to apply for and to receive the furlough. Group 2 are men whom the board of inquiry now find to be sincere and who in their judgment would have been recommended for furloughs if they had had the opportunity of being examined by the board of inquiry before the court-martial proceedings.

It will be recalled that this device of granting farm or other furloughs to such men as might be adjudged sincere was adopted in order that the country might have the benefit of such labor as they could conscientiously perform, instead of having to pay for their care and subsistence with no corresponding benefit; on the whole, its adoption has been justified by experience, and if we were still actively engaged in warfare, I should give my attention to the problem of ascertaining whether some plan could not be adopted for insuring the same treatment to these prisoners.

The signing of the armistice, however, which took place while these cases were under consideration by my military associates, has changed the entire situation, and the War Department has since adopted and announced the policy of returning to civil life at the earliest practicable moment such conscientious objectors as are not serving court-martial sentences (War Department Circular No. 97).

In view of this fact, and believing that essential justice will be rendered by so doing, for reasons stated in the above-mentioned memorandum to you, I have decided to exercise the power of clemency intrusted to me by the President.

I desire that the conscientious objectors, general prisoners, United States Disciplinary Barracks, Fort Leavenworth, Kans., below enumerated, be extended clemency in the form of remission of the unexecuted portions of the sentences of the offenders, honorable restoration to duty, and their immediate discharge from the United States Army.

This is in accordance with the provisions of paragraph 7, section 2, of the act approved March 4, 1915, as published in War Department Bulletin No. 12, 1915.

It is noted that in the case of a general prisoner who has been discharged, his reenlistment may be authorized or, upon the written application from the prisoner for restoration to duty, an order to that end may be promulgated.

It is desired that Form No. 526, A. G. O., be used for their discharge, as provided in paragraph 4, War Department Circular No. 97, 1918, the following remark being placed thereon: "This is a conscientious objector who has done no military duty whatsoever and who refused to wear the uniform."

(Here follows the same list of 113 names appearing in the report of the board of inquiry.)

Thereupon, on January 17, 1919, the following order was issued:

JANUARY 17, 1919.

Memorandum for The Adjutant General.  
Subject: Conscientious objectors.

The Secretary of War directs that the following conscientious objectors, general prisoners at the United States Disciplinary Barracks, Fort Leavenworth, Kans., be extended clemency in the form of the remission of the unexecuted portion of their sentences, their honorable restoration to duty, and their immediate discharge from the United States Army, in accordance with the provisions of paragraph 7, section 2, of the act approved March 4, 1915.

Form No. 526, A. G. O., will be used for their discharge, as provided in paragraph 4, War Department Circular 97, 1918, the following remark being placed thereon: "This is a conscientious objector who has done no military duty whatsoever and who refused to wear the uniform."

(Same list of 113 names.)

FRANK MCINTYRE,  
*Major General, General Staff,*  
*Executive Assistant to Chief of Staff.*

The 113 prisoners whose terms of confinement were thus terminated by the exercise of clemency were not honorably discharged, but were given the discharge which is neither honorable nor dishonorable, and is familiarly known as the "blue ticket" upon which was entered the statement: "This is a conscientious objector who has done no military duty whatsoever and who refused to wear the uniform." See page 24 ante and Exhibit 30a.

The order of the War Department extending clemency to these 113 prisoners did not contemplate payment to them of pay and allowances during the period when they were in confinement serving their sentences. However, by misinterpretation of the orders by the local judge advocate officer at the disciplinary barracks, they were paid when discharged.

The War Department has received from conscientious objectors as refunds of pay the sum of \$9,840.55. Conscientious objectors have also voluntarily contributed, of pay received by them, a very considerable sum, aggregating more than \$20,000, to the Red Cross and other welfare organizations.

Ninety-one (or about 80 per cent) of these prisoners came from only three court-martial districts.

Of these 113 prisoners 103 were religious and 4 were nonreligious conscientious objectors, and as to 6 the records fail to disclose whether they were religious or not.

#### PUBLIC STATEMENT BY THE SECRETARY OF WAR.

On February 13, 1919, the Secretary of War issued for publication the following statement concerning the policy of the War Department toward conscientious objectors convicted by courts-martial.

Upon being asked as to whether the department had formulated any del regulations with reference to the treatment and release of conscientious objec



the Secretary stated that the War Department could not regard any prisoner properly sentenced as entitled to special consideration, but that all prisoners, to the best of his ability and that of his associates, were receiving considerate and intelligent treatment. The examination of the men professing conscientious objections to determine whether in each case the regulations of the department were properly carried into effect, is continuing, and if any additional instances are found in which men of this class have not been dealt with in accordance with the regulations governing them, remedial action will be promptly taken. It may be said, however, for the information of inquirers, that there are two classes among these prisoners for whom a discharge at this time can not be expected. These classes are as follows:

1. Those men adjudged sincere in their conscientious objections to all warfare, who, in recognition of such objections, have been offered service in the national interest under civilian direction, through farm or other furlough, but who have refused to accept such service and have, since such refusal, received a court martial sentence based upon a refusal to comply with the regulations. This class of men will not receive discharge from military obligations in advance of the return and discharge of the great body of citizens now in the military service in the United States and France.

2. Those men who, in the judgment of the board of inquiry, do not hold conscientious scruples against all warfare but who are opposed to participation in this particular war. The War Department finds no justification for the discharge of this class upon the basis of such opposition.

The special clemency board in the Office of the Judge Advocate General is now engaged upon a review of all court-martial sentences, including those of men professing conscientious objections to warfare. The work of the board is not yet completed, but enough cases have been acted upon to indicate that the general policy of the board is toward a substantial reduction of the sentences of prisoners in this class who are sincere, conscientious objectors, except those who have been convicted of disloyalty or who have shown themselves active in propaganda or have otherwise endeavored to influence the conduct of others.

#### VICTORY MEDAL NOT TO BE ISSUED TO CONSCIENTIOUS OBJECTORS WHO REFUSED SERVICE.

On June 7, 1919, the Secretary of War directed the publication of the following order:

"The Victory Medal and Button will not be issued to the following classes as they rendered no service to the War Department and therefore were never on 'active duty' within the meaning of the phrase as employed in General Order 48, War Department, 1919, and Circular 206, War Department, 1919:

"(a) Conscientious objectors who refused to wear the uniform or to accept service in a branch of the Army.

"(b) Men accepted by local boards but rejected at camp before entering on regular duty thereat."

The order further provides that: "Conscientious objectors who accepted service in any branch of the Army are as much entitled to the Victory Medal and Button as are any other members of those branches."

#### COMPARISON OF AMERICAN AND ENGLISH TREATMENT OF CONSCIENTIOUS OBJECTORS IN PROCEDURE AND RESULTS.

A comparison of the American with the English treatment of conscientious objectors, both as to procedure and results, is of interest; for the purpose of such comparison there are appended an original



report dated March 3, 1919 (Appendix A), and a supplemental report (Appendix B) on the subject of conscientious objectors under the British military service acts.

Briefly summarized, these reports disclose the following facts:

The provisions of the British acts exempting conscientious objectors were not limited to exemption from combatant service only, but authorized exemption from all forms of service; and the grounds were not limited to religious but embraced any "conscientious objection."

The local and appeal tribunals, corresponding to the American local and district boards, decided (and the policy had uniform application)—

That conscientious objection, authorizing exemption, is not limited to that based upon religious belief.

That membership in a church opposing war is not sufficient to entitle a claimant to exemption, but there must be established a personal conscientious objection.

That genuine moral or humanitarian conscientious objection is sufficient, regardless of the claimant's religion.

That political opinion or objection without regard to religious, moral, or humanitarian belief does not constitute conscientious objection within the meaning of the act.

The English tribunals granted no unconditional exemption from all military service.

Exemptions granted were either (1) from combatant service only; or (2) exemption from combatant service on the condition that the claimant engage in some form of noncombatant service, such as the ambulance, Red Cross, sanitary, or hospital service, etc.; or (3) conditional exemption from all military service, the condition being engagement in specified "work of national importance."

From January, 1916, to December 31, 1917, about 3,500 conscientious objectors who resisted the British draft were court-martialed.

In the beginning sentences of death or long terms of imprisonment were imposed on recalcitrant conscientious objectors; but all death sentences were commuted to 10 years' penal servitude. Originally the terms of imprisonment were to be served under control of the military authorities, but by order of May 25, 1916, it was provided that thereafter the imprisonment of conscientious objectors be in a public civil prison; and later an order was issued providing that conscientious objectors who had been sentenced to imprisonment in the form of military detention should not be sent overseas in detention.

Later, limits of punishment were fixed as follows: For the first offense, not more than 112 days' imprisonment; for the second offense, not more than 140 days' imprisonment; for the third offense not more than 6 months' imprisonment; and single sentences which had been imposed for longer periods were reduced accordingly by the army council.

In June, 1916, Mr. Asquith announced in the House of Commons the setting up of a tribunal to personally interview every conscientious objector convicted of offenses against discipline, the tribunal, if satisfied of the genuineness of the objection to have authority to release the prisoner and place him in some "work of national importance" under the newly formed committee for the employment of conscientious objectors, presided over by Mr. Brace, under secretary of the home office. This committee was afterwards known as the Brace committee. To accomplish this examination of conscientious objectors

they were all transferred to and concentrated in Wormwood Scrubbs Prison.

Through the workings of the Brace committee up to the end of December, 1917, 3,000 of the conscientious objectors who had been court-martialed and sentenced to imprisonment were transferred to "work of national importance," leaving at that date only about 500 prisoners to serve out their terms of imprisonment.

From the beginning of the British conscription in January, 1916, to the end of recruiting, 6,135 conscientious objectors resisted draft in England, of whom 539 subsequently accepted some form of service and 5,596 were court-martialed. Of the latter number, 4,646 were turned into various sorts of work of national importance, leaving about 950 who were persistently recalcitrant and who were punished by continued confinement.

On April 8, 1919, the British war office issued an order providing for the immediate release of conscientious objectors who had served one or more sentences aggregating at least two years, as a result of which about 450 were immediately liberated. About 500 religious and other conscientious objectors are still confined.

The following is quoted from Appendix B:

Prof. Arthur Venn Dicey, of Oxford University, in an article on the "Conscientious Objector," published in the *Nineteenth Century and After* for February, 1918, says:

"As a matter of common sense it would seem that the objector who desires non-combatant service had better in general be employed in work of national importance, which is not directly connected with the army, but that, if so, the objector should not gain more by the employment than he would get when employed in military service."

This is of interest in view of the fact that it recommended a course of action which was adopted by the War Department (without any knowledge of or reference to the English procedure or discussions) in the course of the evolution of the treatment of conscientious objectors. This was done by the adoption of the furlough system under the orders of June 1 and 10 and July 30, 1918.

The condition stated by Prof. Dicey that if the objector be employed in work of national importance he "should not gain more by employment than he would get when employed in the military service" was made effective by the orders of the War Department limiting the earnings of conscientious objectors, furloughed to industry, to the pay of a private soldier plus the value of rations if not furnished in kind by the employer.

## EXHIBITS.

### EXHIBIT 1.

Extract from Rules and Regulations promulgated June 30, 1917, under authority of the selective service law:

"SEC. 20. *Persons or classes of persons to be discharged by a local board.*—The following persons or classes of persons shall, if called for service by any local board and not discharged as physically deficient or exempted in accordance with the regulations hereinbefore prescribed, be discharged by such local board upon a claim for discharge being made and filed by or in respect of any such person, and substantiated in the opinion of the local board, and a certificate of absolute, conditional or temporary discharge, as the case may require, issued to any such person.

"The claim to be discharged must be made by such person, or by some other person in respect of such person, on a form prepared by the Provost Marshal General and furnished by the local boards for that purpose. Such claim must be filed with the local board on or before the *seventh* day after the mailing by the local board of the notice required to be given such person of his having been called for service.

\* \* \* \* \*

"(i) *Any person who is found by such local board to be a member of any well-recognized religious sect or organization organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form, and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization.*—Any such person upon presentation to such local board, at any time within 10 days after the filing of a claim for discharge by or in respect of such person, of an affidavit made by such person stating that he is a member in good faith and in good standing of a well-recognized religious sect or organization (giving the name thereof) organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form, and that his religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization. And upon the presentation to such local board of an affidavit made by the clerk or minister of the well-recognized religious sect or organization to which such person claiming exemption is a member, stating that said person is a member of said religious sect or organization, which was well recognized and was organized and existing May 18, 1917, and that the then existing creed or principles of said religious sect or organization forbid its members to participate in war in any form; and upon presentation by affidavits of such other evidence as may be required in the opinion of the local board to substantiate the claim of any such person.

"Said act of Congress provides, section 3:

"But no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant."

"In case any such person substantiates, in the opinion of the local board, his claim, such local board shall issue a certificate stating that such person shall not be required or compelled to serve in any capacity except in some capacity declared by the President to be noncombatant."

### EXHIBIT 2.

Serial No. \_\_\_\_\_

Local board.....  
(Insert designation by stamp according to sec. 3 of Regulations.)

(Form No. 174, prepared by the Provost Marshal General.)

CERTIFICATE TO PERSON CLAIMING EXEMPTION UNDER SUBDIVISION (i) OF SECTION  
20 OF THE RULES AND REGULATIONS.

This certifies that a claim for exemption having been filed with this local board on the \_\_\_\_\_ day of \_\_\_\_\_, 191—, by or in respect of the person named herein, on the ground specified in subdivision (i) of section 20 of the Rules and Regulations prescribed by the President June 30, 1917, and the said claim in the opinion of this local board having been substantiated and the right of such person to a certificate established in



accordance with the act of Congress approved May 18, 1917, and said Rules and Regulations; therefore ———, who resides at ——— (street and number), ——— (city, town, and county or township or parish), ——— (State, Territory, or district), whose serial number ——— was given him by this local board, shall not be required or compelled to serve in any capacity, except in some capacity declared by the President to be noncombatant.

The name of such person will be certified to the district board having jurisdiction in accordance with section 24 of said Rules and Regulations.

This certificate is issued subject to all the limitations and conditions of said act of Congress and all the Rules and Regulations prescribed by the President thereunder, and shall be null and void whenever the conditions entitling the person thereto cease to exist.

LOCAL BOARD ——— ———.

By ——— ———, *Chairman.*

—————, *Clerk.*

Dated this ——— day of ———, 191—.

### EXHIBIT 3.

#### SELECTIVE SERVICE REGULATIONS (EFFECTIVE DEC. 15, 1917) SECTION 79, RULE XIV.

RULE XIV. Any registrant who is found by a local board to be a member of any well-recognized religious sect or organization organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form, and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization, shall be furnished by such local board with a certificate (Form 1008, sec. 280, p. 225) to that effect and to the further effect that, by the terms of section 4 of the selective service law, he can only be required to serve in a capacity declared by the President to be noncombatant. He shall be classified, however, as is any other registrant; but he shall be designated upon all classifications, forms, records, certificates, and other writings of local and district boards in which his name appears by the insertion of a cipher (0) after his name.

NOTE.—Registrants claiming exemption from combatant service under Rule XIV, section 79, are not to be placed in a deferred class on this claim alone. Such registrant shall be classified as any other registrant; shall be issued Form 1008 (p. 225) and shall be classified in one of the classes according to his claims or lack of claims for deferred classification. Any registrant already placed in a deferred class on the ground of his being a conscientious objector shall have his case reopened and he shall be classed irrespective of whether or not a certificate of noncombatancy has been issued. (Telegram B-1418, June 10, 1918.)

### EXHIBIT 4.

#### SECTION 280: CERTIFICATE OF EXEMPTION FROM COMBATANT SERVICE.

LOCAL BOARD FOR ——— ———,  
(Date) ——— ———.

This is to certify that ——— Order No. ——— Serial No. ——— has been found to be exempt from combatant service and is eligible only to such military service as may be declared noncombatant by the President of the United States.

—————,  
*Member of Local Board.*

Form 1008, P. M. G. O. (See sec. 79, S. S. R.)

### EXHIBIT 5.

SEPTEMBER 25, 1917.

[*Rush.*]

COMMANDING GENERAL, SEVENTY-SIXTH DIVISION,  
*Camp Devens, Ayer, Mass.*

Secretary of War directs that selected Mennonites who report to your camp for duty be not forced to wear uniform, as question of raiment is one of the tenets of their faith.

McCain.

WAR DEPARTMENT TELEGRAPH OFFICE:

Please send same telegram to all commanding generals of the National Army Divisions and National Guard Divisions.

## EXHIBIT 6.

OCTOBER 10, 1917.

[Confidential.]

From: The Adjutant General of the Army.

To: The commanding generals of all National Army and National Guard division camps.

Subject: Conscientious objectors.

1. The Secretary of War directs that you be instructed to segregate the conscientious objectors in their divisions and to place them under supervision of instructors who shall be specially selected with a view of insuring that these men will be handled with tact and consideration and that their questions will be answered fully and frankly.

2. With reference to their attitude of objecting to military service these men are not to be treated as violating military laws thereby subjecting themselves to the penalties of the Articles of War, but their attitude in this respect will be quietly ignored and they will be treated with kindly consideration. Attention in this connection is invited to a case where a number of conscientious objectors in one of our divisions, when treated in this manner, renounced their original objections to military service and voluntarily offered to give their best efforts to the service of the United States as soldiers.

3. It is desired that after the procedure above indicated shall have been followed for a sufficient length of time to afford opportunity to judge of the results derived from it, a report of the action taken and the results obtained under these instructions be submitted to the War Department by each division commander. As a result of the consideration of all these reports further instructions will be issued by the Secretary of War as to the policy to be observed in future in the case of conscientious objectors.

4. Under no circumstances are the instructions contained in the foregoing to be given to the newspapers.

H. G. LEARNARD, *Adjutant General*.

## EXHIBIT 7.

OCTOBER 20, 1917.

From: The Adjutant General of the Army.

To: The commanding generals of all National Army and National Guard division camps.

Subject: Conscientious objectors.

In view of reports being received in the War Departments, relative to mistreatment and nonsegregation of conscientious objectors, the Secretary of War directs your attention be called to confidential letter from this office on October 10, 1917, on above subject, in which you were instructed to segregate the conscientious objectors in your division and to place them under supervision of instructors who shall be specially selected, with a view of insuring that these men will be handled with tact and consideration and that their questions will be answered fully and frankly.

L. A. DEWEY, *Adjutant General*.

## EXHIBIT 8.

DECEMBER 19, 1917.

[Confidential.]

From: The Adjutant General of the Army.

To: The commanding generals of all National Army and National Guard camps except Camp Grant.

Subject: Conscientious objectors.

1. The Secretary of War directs that until further instructions on the subject are issued "personal scruples against war" should be considered as constituting "conscientious objections" and such persons should be treated in the same manner as other "conscientious objectors" under the instructions contained in confidential letter from this office dated October 10, 1917.

2. Under no circumstances should these instructions be communicated to the newspapers.

H. G. LEARNARD, *Adjutant General*.

## EXHIBIT 9.

MARCH 6, 1918.

From: The Adjutant General of the Army.

To: The commanding generals of all National Army, Regular Army, and National Guard divisions; department, Coast Artillery district, and camp commanders.

Subject: Psychological examination of conscientious objectors.

The Secretary of War directs that a psychological examination be made of all conscientious objectors at your camp and that report be made to him of the result thereof, and also that a report be made to him of all cases of trials by court-martial of conscientious objectors, showing offenses committed and sentences awarded.

By order of the Secretary of War.

R. K. CRAVENS, *Adjutant General*.

## EXHIBIT 10.

MARCH 11, 1918.

From: The Adjutant General of the Army.

To: The commanding generals of all National Guard and National Army divisions.

Subject: Conscientious objectors.

1. You are informed that instructions regarding the segregation of conscientious objectors, contained in confidential letters from The Adjutant General of October 10 and December 19, 1917, should not be construed as requiring the mingling in one group of different classes of conscientious objectors, who, for the good of the service, may better be kept apart.

2. Under no circumstances are the instructions contained in the foregoing to be given to the newspapers.

By order of the Secretary of War.

H. G. LEARNARD, *Adjutant General*.

## EXHIBIT 11.

[General Orders, No. 28.]

WAR DEPARTMENT,  
Washington, March 23, 1918.

The following Executive order is published to the Army for the information and guidance of all concerned:

## EXECUTIVE ORDER.

1. By virtue of authority contained in section 4 of the act approved May 18, 1917, entitled "An act to authorize the President to increase temporarily the Military Establishment of the United States," whereby it is provided—

"And nothing in this act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well-recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations; but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant."

I hereby declare that the following military service is noncombatant service:

(a) Service in the Medical Corps wherever performed. This includes service in the sanitary detachments attached to combatant units at the front; service in the divisional sanitary trains composed of ambulance companies and field hospital companies, on the line of communications, at the base in France, and with the troops and at hospitals in the United States; also the service of supply and repair in the Medical Department.

(b) Any service in the Quartermaster Corps, in the United States may be treated as noncombatant. Also, in rear of zone of operations, service in the following: Steve-dore companies, labor companies, remount depots, veterinary hospitals, supply depots, bakery companies, the subsistence service, the bathing service, the laundry service, the salvage service, the clothing-renovation service, the shoe repair service, the transportation repair service, and motor-truck companies.

(c) Any engineer service in the United States may be treated as noncombatant service. Also, in rear of zone of operations, service as follows: Railroad building, operation and repair; road building and repair; construction of rear line fortifications,



auxiliary defenses, etc.; construction of docks, wharves, storehouses and of such cantonments as may be built by the Corps of Engineers; topographical work; camouflage; map reproduction; supply depot service; repair service; hydraulic service; and forestry service.

2. Persons ordered to report for military service under the above act who have (a) been certified by their local boards to be members of a religious sect or organization as defined in section 4 of said act; or (b) who object to participating in war because of conscientious scruples but have failed to receive certificates as members of a religious sect or organization from their local board, will be assigned to noncombatant military service as defined in paragraph 1 to the extent that such persons are able to accept service as aforesaid without violation of the religious or other conscientious scruples by them in good faith entertained. Upon the promulgation of this order it shall be the duty of each division, camp, or post commander, through a tactful and considerate officer, to present to all such persons the provisions hereof with adequate explanation of the character of noncombatant service herein defined, and upon such explanations to secure acceptances of assignment to the several kinds of noncombatant service above enumerated; and whenever any person is assigned to noncombatant service by reason of his religious or other conscientious scruples, he shall be given a certificate stating the assignment and reason therefor, and such certificate shall thereafter be respected as preventing the transfer of such persons from such noncombatant to combatant service by any division, camp, post, or other commander under whom said person may thereafter be called to serve, but such certificate shall not prevent the assignment of such person to some other form of noncombatant service with his own consent. So far as may be found feasible by each division, camp, or post commander, future assignments of such persons to noncombatant military service will be restricted to the several detachments and units of the medical department in the absence of a request for assignment to some other branch of noncombatant service as defined in paragraph 1 hereof.

3. On the first day of April, and thereafter monthly, each division, camp, or post commander shall report to The Adjutant General of the Army, for the information of the Chief of Staff and the Secretary of War, the names of all persons under their respective commands who profess religious or other conscientious scruples as above described and who have been unwilling to accept, by reason of such scruples, assignment to noncombatant military service as above defined, and as to each such person so reported a brief, comprehensive statement as to the nature of the objection to the acceptance of such noncombatant military service entertained. The Secretary of War will from time to time classify the persons so reported and give further directions as to the disposition of them. Pending such directions from the Secretary of War, all such persons not accepting assignment to noncombatant service shall be segregated as far as practicable and placed under the command of a specially qualified officer of tact and judgment, who will be instructed to impose no punitive hardship of any kind upon them, but not to allow their objections to be made the basis of any favor or consideration beyond exemption from actual military service which is not extended to any other soldier in the service of the United States.

4. With a view to maintaining discipline, it is pointed out that the discretion of courts-martial, so far as any shall be ordered to deal with the cases of persons who fail or refuse to comply with lawful orders by reason of alleged religious or other conscientious scruples, should be exercised, if feasible, so as to secure uniformity of penalties in the imposition of sentences under articles of war 64 and 65, for the willfull disobedience of a lawful order or command. It will be recognized that sentences imposed by such courts-martial, when not otherwise described by law, shall prescribe confinement in the United States Disciplinary Barracks or elsewhere as the Secretary of War or the reviewing authority may direct, but not in a penitentiary; but this shall not apply to the cases of men who desert either before reporting for duty to the military authorities or subsequently thereto.

5. The Secretary of War will review the sentences and findings of courts-martial heretofore held of persons who come within any of the classes herein described, and bring to the attention of the President for remedy, if any be needed, sentences and judgments found at variance with the provisions hereof.

WOODROW WILSON.

THE WHITE HOUSE,  
March 20, 1918.

By order of the Secretary of War:

Official:

H. P. MCCAIN,  
*The Adjutant General.*

PEYTON C. MARCH,  
*Major General, Acting Chief of Staff.*

## EXHIBIT 12.

APRIL 10, 1918.

From: The Adjutant General of the Army.

To: The Commanding Generals of all Regular Army, National Army, and National Guard divisions, and to all commanding officers of departments and separate camps or posts.

Subject: Psychological examinations of conscientious objectors.

Referring to the instructions to have a psychological examination of all conscientious objectors made, which were contained in letter of March 6, 1918, the Secretary of War directs that all of these men whom the examination psychologists, for any reason, consider should receive further examination by a psychiatric specialist be examined by such a specialist. In all cases where psychiatric specialists recommend the discharge from the service of such men for mental deficiency or derangement, their discharge for the good of the service is authorized.

By order of the Secretary of War:

H. G. LEARNARD,  
*Adjutant General.*

## EXHIBIT 13.

APRIL 18, 1918.

Memorandum for the Adjutant General.

Mr. Keppel has brought to my attention the question raised in my absence as to whether men who accept service in noncombatant branches under the provisions of the President's Executive order should be required to bear side arms.

My judgment is that it should be contrary to the spirit of the order to require these men to bear arms if they can not conscientiously do so.

NEWTON D. BAKER,  
*Secretary of War.*

[First indorsement.]

On copy of 383.2 (Misc. Div.).

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE.  
*April 20, 1918.*

To all department commanders, the commanding generals of all Regular Army, National Army, and National Guard divisions, and the commanding officers of all excepted places, for their information.

By order of the Secretary of War:

ROY A. HILL,  
*Adjutant General.*

## EXHIBIT 14.

From: The Adjutant General of the Army.

To: The commanding generals of all departments, Regular Army, National Army, and National Guard divisions, and commanding officers of each separate post and camp.

Subject: Conscientious objectors.

1. With reference to the Executive order dated March 21, 1918, published in General Orders, No. 28, War Department, 1918, the Secretary of War directs the attention of all commanding officers to the provisions of paragraph 3 of this order to the effect that no punitive hardship of any kind be imposed upon conscientious objectors who do not accept assignment to noncombatant service before their cases shall have been submitted to the Secretary of War, and instructions relating to their disposition shall have been issued by him.

By order of the Secretary of War:

H. G. LEARNARD, *Adjutant General.*

## EXHIBIT 15.

APRIL 27, 1918.

From: The Adjutant General of the Army.

To: The commanding generals of all Regular Army, National Army, and National Guard divisions; department commanders; and commanding officers of excepted places.

Subject: Treatment of conscientious objectors.

With reference to those men who because of religious belief or personal scruples are classed as conscientious objectors, the following instructions supplement those

heretofore issued: The Secretary of War directs that any of these men guilty of conduct described in (a), (b), or (c) below be brought promptly to trial by court-martial.

(a) Those whose attitude in camp is sullen and defiant.

(b) Those whose sincerity is questioned.

(c) Those who are active in propaganda.

With the exceptions noted above, the instructions heretofore issued relative to the treatment of conscientious objectors remain in force.

ROY A. HILL, *Adjutant General.*

#### EXHIBIT 16.

[Corrected copy.]

JUNE 1, 1918.

From: The Adjutant General of the Army.

To: All division and department commanders in the United States.

Subject: Conscientious objectors; segregation at Fort Leavenworth, Kans.

1. By the terms of the presidential order of March 20, 1918, men reporting at the training camps under the provisions of the selective-service law who profess conscientious scruples against warfare are given an opportunity to select forms of service designated by the President to be noncombatant in character. By direction of the Secretary of War, dated April 22, 1918, instructions were issued by this office, April 27, 1918, to try by court-martial those declining to accept such noncombatant service, (a) whose attitude in camp is defiant, (b) whose sincerity is questioned, (c) who are active in propaganda.

2. All other men professing conscientious objections, now segregated in posts and camps, i. e., those who, while themselves refusing to obey military instructions on the ground of conscientious scruples, religious or other, have given no other cause of criticism in their conduct, and all who have been or may be acquitted by such courts-martial, shall be transferred to Fort Leavenworth, Kans. Orders for such transfers will be obtained from this office. The commanding officer, Fort Leavenworth, will keep these men segregated, but not under arrest, pending further instructions from this office.

3. The same procedure shall be carried out as promptly as possible in the cases of men professing similar scruples who may report at posts or camps in the future.

4. Under no circumstances will conscientious objectors otherwise qualified to perform military duty be discharged from their responsibilities under the selective-service law, but the Secretary of War has constituted a board of inquiry, composed of a representative from the Judge Advocate's Office (Maj. Richard C. Stoddard, chairman); Judge Julian W. Mack, of the Federal court; and Dean H. F. Stone, of the Columbia University Law School. It will be the duty of this board to interrogate personally each man so transferred. Such men as may be determined by this board to be sincere in their attitude and desirous of serving their country in any way within the limits of their conscientious scruples may be furloughed by the commanding officer, Fort Leavenworth, without pay for agricultural service, upon the voluntary application of the soldier, under the authority contained in the act of Congress of March 16, 1918, and the provisions of General Order 31, 1918, provision being made—

(1) That monthly report as to the industry of each person so furloughed shall be received from disinterested sources, and that the furlough shall terminate automatically upon receipt of report that he is not working to the best of his ability; and

(2) That no person shall be recommended for such furlough who does not voluntarily agree that he shall receive for his labor an amount no greater than a private's pay, plus an estimated sum for subsistence if such be not provided by the employer. It is suggested that any additional amount which may be offered for the service of such men be contributed to the Red Cross.

5. In exceptional cases the board may recommend furlough for service in France in the Friend's Reconstruction Unit.

6. If there shall be any instances in which the findings of courts-martial at camps or posts in cases involving conscientious objectors shall be disapproved by the Secretary of War, the men concerned shall also be transferred to Fort Leavenworth, and similarly examined and reported upon by the board of inquiry.

7. Any man who is not recommended for furlough by this board, or who being offered such furlough shall refuse to accept it, or whose furlough shall be terminated for the reasons indicated above, or for other reasons deemed sufficient by the Secretary of War, shall be required to perform such noncombatant service as may be assigned to him and shall be held strictly accountable under the Articles of War for the proper



performance of such service and to strict obedience to all laws governing or applicable to soldiers employed in that status. In the event of disobedience of such laws or failure to perform such service, the offender shall be tried by court-martial, and if found guilty and sentenced to confinement, shall be detained in the Disciplinary Barracks for the term of his sentence.

8. Pending the final decision in each case as to the disposal of these men, the directions as to their treatment issued from time to time by order of the Secretary of War remain in force. These may be summarized as follows:

As a matter of public health every man in camp, entirely apart from his military status shall be expected to keep himself and his belongings and surroundings clean, and his body in good condition through appropriate exercise. Men declining to perform military duties shall be expected to prepare their own food.

If, however, any drafted man, upon his arrival at camp either through the presentation of a certificate from his local board or by written statement addressed by himself to the commanding officer, shall record himself as a conscientious objector, he shall not, against his will, be required to wear a uniform or to bear arms; nor, if, pending the final decision as to his status, he shall decline to perform, under military direction, duties which he states to be contrary to the dictates of his conscience, shall he receive punitive treatment for such conduct.

No man who fails to report at camp, in accordance with the instructions of his local board, or who, having reported, fails to make clear upon his arrival his decision to be regarded as a conscientious objector, is entitled to the treatment outlined above.

In the assignment of any soldier to duty, combatant or noncombatant, the War Department recognizes no distinction between service in the United States and service abroad.

By order of the Secretary of War:

ROY A. HILL, *Adjutant General.*

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EXHIBIT 17.

JUNE 10, 1918.

[Confidential.]

From: The Adjutant General of the Army.

To: All department and division commanders.

Subject: Conscientious objectors—Furloughs.

1. The following confidential instructions, supplemental to instructions from this office, June 1 and June 8, 1918, are furnished for your information and guidance.

2. The board of inquiry referred to in paragraph 4, letter of June 1, is authorized in exceptional cases to recommend furlough for the purpose of engaging in industrial occupations as well as to engage in agricultural work.

3. Such recommendations will be dealt with in the same manner as is provided in orders with respect to agricultural work.

By order of the Secretary of War:

ROY A. HILL, *Adjutant General.*

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EXHIBIT 18.

JUNE 10, 1918.

From: The Adjutant General of the Army.

To: The commanding generals of all departments and divisions.

Subject: Furloughs, conscientious objectors.

1. The following instructions relative to men furloughed to engage in agricultural work pursuant to instructions from this office contained in circular letter 382.2 Disposition (Misc. Div.), dated June 1, 1918, are published for the information of all concerned.

2. The board referred to in paragraph 4 of the circular letter cited will visit such camps and cantonments at which conscientious objectors are now stationed or to which they may be transferred, as the board deems proper, for the purpose of conducting the examination referred to in the above-mentioned letter.

3. The board will be given every facility and assistance to examine all persons claiming to be conscientious objectors, who have not been court-martialed and are not under charges, and, with the consent of the camp commander, such also as are under charges and have not yet been brought to trial.

4. Furlough will be issued by the commanding officers of the respective camps at which the men to be furloughed are stationed, pursuant to the recommendations of the board. Such furlough shall not be granted until the commanding officer is satisfied that bona fide employment at the prevailing rate of wages in this occupation can be secured. The furlough shall be conditioned upon the man's written agreement that he shall receive no more than a private's pay plus a reasonable amount for subsistence, clothing and medical attention and that the balance of such wages shall be paid to the American Red Cross.

5. Men furloughed pursuant to these instructions will be transferred as of date of furlough to Fort Leavenworth, Kans. Their service records will be sent to the commanding officer, Fort Leavenworth, Kans., and upon the termination of their furlough for cause they will be sent to that post.

6. When it becomes necessary to revoke the furlough of any men furloughed under the provisions of these instructions, the commanding officer, Fort Leavenworth, will request the department commander of the department in which the man is employed to take him into custody and send him under guard to Fort Leavenworth.

7. The commanding officer concerned will sent to Fort Leavenworth, Kans., such of the men so examined by the board as it may recommend. Men so sent shall be held at Fort Leavenworth for further examination and report by the board.

8. Definite instructions as to the method to be followed in arranging for employment for men to be furloughed under the foregoing instructions will be furnished later.

By order of the Secretary of War:

ROY A. HILL, *Adjutant General.*

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EXHIBIT 19.

[Confidential.]

JUNE 14, 1918.

From: The Adjutant General of the Army.

To: The commanding generals of all camps; department commanders in the United States; staff bureaus and departments.

Subject: Conscientious objectors.

With reference to conscientious objectors segregated at Fort Leavenworth, Kans., or elsewhere, you are advised that it is quite proper under the circumstances to have the mail of such men censored and access to the men refused on the part of political visitors. They should, however, be permitted to receive visits from any clergyman of their particular faith, whose status as to loyalty and patriotism is satisfactory to the intelligence officers of the camp.

By order of the Secretary of War:

ROY A. HILL, *Adjutant General.*

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EXHIBIT 19a.

CHICAGO, ILL., July 15, 1918.

ADJUTANT GENERAL ARMY,  
*Washington.*

As result of personal inspection of Fort Riley and Fort Leavenworth I recommend that the conscientious objectors now at and to be sent to Fort Leavenworth with the officers and enlisted men attached thereto, and all tentage and material now at Fort Leavenworth that may be needed at Fort Riley for their upkeep be transferred to Fort Riley, where the services of these conscientious objectors will be needed and can be utilized on the hay crop and other work for several months' period. They are not needed at Fort Leavenworth because of the availability there of the great number of men in the disciplinary barracks period. This transfer is agreeable to commanding officers Forts Leavenworth and Riley.

BARRY.

REPLY.

JULY 20, 1918.

COMMANDING GENERAL, CENTRAL DEPARTMENT,  
*Chicago, Ill.*

Recommendation contained your telegram 15th instant approved. Board of inquiry on conscientious objectors now due at Fort Leavenworth. As soon as they have finished there, proceed with the transfer of detachment to Fort Riley as recommended. Notify this office by telegraph when transfer has been effected. In future, detachments will be sent direct to Fort Riley.

McCain.

## EXHIBIT 20.

WAR DEPARTMENT,  
THE ADJUTANT GENERAL'S OFFICE,  
Washington, July 30, 1918.

From: The Adjutant General of the Army.

To: All department commanders in the United States; commanding generals of all Regular Army, National Army, and National Guard divisions; commanding officers of all excepted places; and all staff departments.

Subject: Conscientious objectors.

1. Letter of instruction, dated June 1, 1918, subject, "Conscientious objectors; segregation at Fort Leavenworth, Kans.," is hereby rescinded and the following substituted therefor:

2. By the terms of the Presidential Order of March 20, 1918, men reporting at the training camps under the provisions of the selective service law who profess conscientious scruples against warfare are given an opportunity to select forms of service designated by the President to be noncombatant in character. Commanding officers are instructed to assign to noncombatant service such conscientious objectors as are deemed to be sincere and apply for such service, furnishing such conscientious objectors with a certificate exempting them from combatant service as prescribed in General Orders, No. 28, War Department, 1918. Trial by court-martial of those declining to accept such noncombatant service is authorized in the following cases: (a) Whose attitude in camp is defiant; (b) whose cases, in the judgment of the camp commander, for any reason, should not await investigation by the board hereinafter referred to; (c) who are active in propaganda.

3. All other men professing conscientious objections, now segregated in posts and camps, i. e., those who, while themselves refusing to obey military instructions on the ground of conscientious scruples, religious or other, have given no other cause of criticism in their conduct, and all who have been or may be tried and acquitted by courts-martial, shall be furloughed as herein directed or transferred to such other stations as may be designated from time to time. Orders for such transfers will be obtained from this office. The commanding officers of all camps or stations will keep these men segregated, but not under arrest, pending further instructions from this office.

4. The same procedure shall be carried out in the cases of men professing similar scruples who may report at posts or camps in the future, when, after due examination by the camp or post commander, such men shall persist in refusing noncombatant service.

5. If there shall be any instances in which the findings of courts-martial at camps or posts in cases involving conscientious objectors shall be disapproved by the Secretary of War, the men concerned shall also be transferred to a segregated detachment of conscientious objectors and examined and reported upon by the board of inquiry hereinafter referred to.

6. The Secretary of War has constituted a board of inquiry, composed of a representative from the Judge Advocate General's Office (Maj. Richard C. Stoddard), chairman; Judge Julian W. Mack, of the Federal Court; and Dean H. F. Stone, of the Columbia University Law School. Under no circumstances will conscientious objectors otherwise qualified to perform military duty be discharged from their responsibilities under the selective-service law, but all cases of the character referred to in paragraph two, except those under charges or being tried by court-martial, shall be investigated by this board, who will interrogate personally each individual whose case is so referred to them, and recommend action to be taken. Such men as may be determined by this board to be sincere conscientious objectors as to combatant service, but not as to noncombatant service, shall, on the recommendation of the board, be given an opportunity to select forms of service designated by the President to be noncombatant in character, and such men as may be indicated by this board to be sincere conscientious objectors, both as to combatant and noncombatant service, shall, on the recommendation of the board, be furloughed without pay for agricultural service, upon the voluntary application of the soldier, under the authority contained in the act of Congress of March 16, 1918, and the provisions of General Orders, No. 31, War Department, 1918, provision being made:

(a) That monthly report as to the industry of each person so furloughed shall be received from disinterested sources, and that the furlough may be terminated upon receipt of report that he is not working to the best of his ability; and

(b) That bona fide employment be obtained at the prevailing rate of wages for the class of work in which he engages, in the community in which he is employed.

(c) That no person shall be recommended for such furlough who does not voluntarily agree that he shall receive for his labor an amount no greater than a private's



pay, plus an estimated sum for subsistence if such be not provided by the employer, and that any additional amount which may be paid for his services be contributed to the American Red Cross.

7. It is the function of the board of inquiry to determine the sincerity of men professing conscientious objections, both as to refusal to perform noncombatant service and also with regard to the performance of combatant service. When the board upon examination believes any man to be insincere in his protestations against the performance of combatant service it will so report to his commanding officer, and such soldier will then be assigned by his commanding officer to any military service and held accountable for its performance.

8. In exceptional cases the board may recommend furlough for service in France in the Friends' Reconstruction Unit.

9. Under subparagraph (a), General Orders, No. 28, work in the reconstruction hospitals of the medical corps is hereby designated as a special class of noncombatant service. It is found that certain men, evidently sincere in their objections to accepting any existing form of noncombatant service, would be willing to accept work in aid of men, who, themselves, are not to be returned to military service. Men assigned to such work should be granted a certificate limiting their service to this particular branch of the medical corps.

10. The attention of all men examined will be especially directed to the opportunities for noncombatant service in the reclamation branch of the Quartermaster Corps, whose activities comprise the laundry service, the salvage service, the clothing renovation service, the shoe repair service, the transportation repair service, and motor truck companies.

11. Any man who is recommended by this board for noncombatant service or furlough, and who refuses to avail himself of the opportunity to be offered to him pursuant to the recommendation, or any man whose furlough shall be terminated as above provided, or for other reasons deemed sufficient by the Secretary of War, shall be required to perform such noncombatant service as may be assigned to him and shall be held strictly accountable under the Articles of War for the proper performance of such service and to strict obedience to all laws governing or applicable to soldiers employed in that status. In the event of disobedience of such laws or failure to perform such service, the offender shall be tried by court-martial, and if found guilty and sentenced to confinement, shall be detained in the disciplinary barracks for the term of his sentence.

12. Pending the final decision in each case as to the disposal of these men, the directions as to their treatment issued from time to time by order of the Secretary of War remain in force. These directions are to be accepted as authoritative interpretations of paragraph 3, General Orders, No. 28, War Department, 1918, and may be summarized as follows:

(a) As a matter of public health every man in camp, entirely apart from his military status, shall be expected to keep himself and his belongings and surroundings clean, and his body in good condition through appropriate exercise. Men declining to perform military duties shall be expected to prepare their own food.

(b) If, however, any drafted man, upon his arrival at camp, either through the presentation of a certificate from his local board, or by written statement addressed by himself to the commanding officer, shall record himself as a conscientious objector, he shall not, against his will, be required to wear a uniform or to bear arms; nor, if, pending the final decision as to his status, he shall decline to perform, under military direction, duties which he states to be contrary to the dictates of his conscience, shall he receive punitive treatment for such conduct. He shall be required to furnish such information and to render such assistance as may be necessary to complete the original entries on all records relating to his induction into the service; but will be informed that such action on his part will not, in any way, prejudice his status as a conscientious objector.

(c) No man who fails to report at camp, in accordance with the instructions of his local board, or who, having reported, fails to make clear upon his arrival his decision to be regarded as a conscientious objector, is entitled to the treatment outlined above.

(d) In the assignment of any soldier to duty, combatant or noncombatant, the War Department recognizes no distinction between service in the United States and service abroad.

13. Regulations for the administration of the furloughs of such men as may be recommended by the board are now being formulated and these soldiers will be removed from the cantonments and stations as promptly as possible.

By order of the Secretary of War:

J. B. WILSON, *Adjutant General*.

## EXHIBIT 21.

AUGUST 2, 1918.

From: The Adjutant General of the Army.

To: All department, camp, and cantonment commanders and all excepted places.

Subject: Certificates for conscientious objectors.

Reports reaching this office indicate that so much of paragraph 2 of the Executive order published in General Orders No. 28, War Department, March 23, 1918, as requires that men who have been assigned to noncombatant service as conscientious objectors be provided with a certificate stating the assignment and the reason therefor, is not being complied with.

This provision of the Executive order cited above, will be strictly complied with by all concerned in future. A suitable form for the certificate required is inclosed.

By order of the Secretary of War.

JOHN S. JOHNSTON, *Adjutant General.*

## EXHIBIT 22.

*To any Officer of the Army of the United States:*

Under and by virtue of the authority contained in and conferred by the President of the United States in an Executive order relating to conscientious objectors, and dated March 20, 1918, the undersigned, commanding ———, does hereby certify that ——— has, upon full inquiry and investigation, proven to the satisfaction of the military authorities that he is a conscientious objector against war, and that he can not participate or accept service therein in any combatant capacity without violation of the religious or other conscientious scruples by him in good faith entertained.

For this reason and for the further reason that he has voluntarily chosen to accept noncombatant service, under the terms of said Executive order, the said ——— has been assigned to ———.

## EXHIBIT 23.

WAR DEPARTMENT,  
THE ADJUTANT GENERAL'S OFFICE.  
*Washington, September 4, 1918.*

From: The Adjutant General of the Army.

To: Commanding generals of all camps, cantonments, and departments; replacement camps and replacement training centers.

Subject: Conscientious objectors.

On June 14, 1918, a letter containing the following was furnished you:

"With reference to conscientious objectors segregated at Fort Leavenworth, Kans, or elsewhere, you are advised that it is quite proper under the circumstances to have the mail of such men censored and access to the men refused on the part of political visitors. They should, however, be permitted to receive visits from any clergymen of their particular faith, whose status as to loyalty and patriotism is satisfactory to the intelligence officers of the camp."

The Secretary of War desires that the officer under your command who has charge of conscientious objectors be made acquainted with the provisions of the letter of June 14, 1918.

H. G. LEARNARD, *Adjutant General.*

## EXHIBIT 24.

SEPTEMBER 21, 1918.

From: The Adjutant General of the Army.

To: Officers exercising court-martial jurisdiction and the commandants of the Disciplinary Barracks and its branches.

Subjects: Place of confinement of conscientious objectors convicted by general court-martial.

1. Hereafter conscientious objectors convicted by general courts-martial and receiving sentence requiring confinement at a Disciplinary Barracks will be confined at the United States Disciplinary Barracks, Fort Leavenworth, Kans. Accordingly, reviewing authorities will designate the Fort Leavenworth Disciplinary Barracks as the place of confinement in such cases, and will send the prisoners there as soon as practicable after the promulgation of their sentences.

2. In order to avoid unnecessary cost of transportation it is desirable that, whenever practicable, the transfer of only one prisoner at a time be avoided. With this end in view, prisoners may be assembled at some convenient post and held temporarily pending transfer by the department commander; or, when tried at places near the Atlantic or Pacific Branch, United States Disciplinary Barracks, may be sent there for temporary confinement, to be transferred subsequently by the commandant to the Fort Leavenworth Disciplinary Barracks.

By order of the Secretary of War.

ROY A. HILL, *Adjutant General*.

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#### EXHIBIT 25.

[From the Committee on Public Information—Immediate release.]

SEPTEMBER 28, 1918.

The following statement by the Third Assistant Secretary of War is authorized by the War Department:

The War Department's policy regarding conscientious objectors has from the beginning been based on the provisions of the Federal draft law and subsequent Executive orders. It has been the liberal American policy of according a measure of self-determination to the few who in all sincerity have not been able to adjust their minds to the needs of the present sudden and desperate emergency; to whom direct participation in the war would violate religious convictions, as well as a sense of self-respect and integrity of character.

In dealing with objectors the difficulties have not been primarily those of policy, but of practical procedure. First of all the insincere have had to be differentiated from the sincere, and forced into full service or subjected to fitting penalties. The second difficulty has concerned the disposition of sincere objectors in ways that would conserve the man-power of the Nation. This has been complicated by misunderstandings and by peculiar local situations; but with growing experience many complications have been eliminated as requisite governmental machinery to this end has been perfected.

The usual procedure as thus far developed is as follows: A draftee is certified as a conscientious objector by his local board on proper presentation of facts. On call he goes to a cantonment as does any other drafted man. He there has a hearing before a Board of Inquiry on Conscientious Objectors, made up of Maj. Walter G. Kellogg, Judge Julian Mack, and Dean Harlan F. Stone, of the Columbia Law School. Pending a hearing, objectors are segregated in camp as a special detachment under control of a military officer, and live under the same conditions as apply to soldiers in training, except that no military duties are exacted. Labor is usually required, and in notable instances this has had considerable monetary value. At Camp Sherman, for instance, the conscientious objectors detachment has hauled manure and fed hogs on a large adjoining farm, the owners of which have a contract for disposing of the garbage of the camp. There has been regular compensation for these services and resulting proceeds are on deposit in a Chillicothe bank subject to transfer to the treasury of the Red Cross.

The board of inquiry passes on the sincerity of objectors. Those adjudged insincere are required to perform regular military service, in default of which they are subjected to court-martial and remanded to the disciplinary barracks at Fort Leavenworth. Those adjudged sincere are encouraged to enter noncombatant military service; and many have done so. But those whose convictions prevent this are furloughed to various forms of service under the jurisdiction of a civilian commissioner of the department who has supervisory and recommendatory powers. The vast majority of objectors have been lifelong members of religious sects the tenets of which forbid participation in war. Most prominent among these are the Society of Friends, the Mennonites, the Dunkards, the Christadelphians and various minor sects such as True Lights, Holy Jumpers; and others little known outside of restricted and isolated areas. A large proportion of the Friends have been furloughed by the board to the Friends' Reconstruction Unit, an organization operating under the American Red Cross in the work of rebuilding devastated areas in France. Others are furloughed mainly into agricultural service. In instances one or more objectors have been placed out on small farms on the recommendation of county agricultural agents, who know local conditions and maintain general oversight of furloughed men. These are paid the prevailing local wage rate for men of their degree of skill; but they are allowed to retain only a private's pay, any surplus above that amount being paid to the Red Cross.



In other instances, objectors are furloughed in groups to harvest apple, corn, or other crops in danger of loss because of local labor shortage; to undertake work of land reclamation; to carry on large-scale farming operations in the West, or to reduce the labor shortage in State institutions for defectives, which are often in dire straits because their regular force has been cut down by the Army draft or drawn off by the high wages current in outside employments. In the early future, detachments of conscientious objectors will in all likelihood be sent to France to render forms of service, agricultural or otherwise, not directly connected with the prosecution of military activities.

In short, every effort is being made to respect the sincere scruples of a small minority of our people, at the same time that their power to contribute to the Nation's efficiency is turned to good account. There is unquestionably strong sentiment in many quarters against the granting of immunity from military service to any group in our population however small. But many objectors are not without the courage of their convictions. They would resist compulsion to the end. We might imprison or shoot them. But Prussian practices such as these would hardly appeal in a Democracy. On the other hand, a method which conserves the man power of the Nation, and accords to furloughed objectors a lot that is endurable and serviceable, but in no sense pampered, will, it is believed, commend itself to the common sense and practicability of the American people.

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#### EXHIBIT 26.

WAR DEPARTMENT,  
THE ADJUTANT GENERAL'S OFFICE,  
*Washington, October 2, 1918.*

From: The Adjutant General of the Army.

To: All department and camp commanders.

Subject: Treatment of conscientious objectors.

1. Attention is called to the treatment of men who profess conscientious objections to combatant warfare. The terms of the selective-service act indicate that it is the desire of the people of the United States, as expressed in this legislation, to make recognition of the fact that under any draft system men will be called to the colors who profess such objections. The executive order of the President, signed March 20, 1918, sets forth the policy with reference to the administration of the law in this aspect of it. The memorandum of instructions sent out by The Adjutant General on July 30 expresses the desires of the Secretary of War as to the methods to be pursued in dealing with such men to carry out this policy.

2. There is evidently a wide divergence in the manner in which these men are treated in the different camps and posts. The point at issue is always whether a given man is sincere in his professions. If a man brings evidence from his local board, or from other reputable sources, of his membership in a religious body which is of record as opposed to warfare, or gives evidence of sincerity by his conduct and attitude, it is clearly not the intention, either of the legislation, or of the President's executive order, or the instructions issued by the direction of the Secretary of War that men should be treated, either by officers or enlisted men, pending examination by the Board of Inquiry appointed for the purpose, as if their insincerity and cowardice had already been established. It is not intended or desired that they be pampered or accorded special privileges in any respect not covered by existing instructions; on the other hand, they should not be treated, as in a few cases they have been, as men already convicted of cowardice and deceit. It is the experience of the department that a considerate and tactful attitude toward these men has in many cases resulted in their acceptance, either of noncombatant, or in many cases combatant service, whereas a hectoring and abusive attitude has had an opposite effect.

3. The plans now under way for an enlargement of the board of inquiry will make it possible to have these soldiers examined more promptly than has hitherto been the case, and arrangements have also been made for their concentration at points where divisions are not in training.

4. You are directed to notify all concerned.

By order of the Secretary of War:

JOHN S. JOHNSTON,  
*Adjutant General.*

## EXHIBIT 27.

[Circular No. 45.]

WAR DEPARTMENT,  
Washington, November 1, 1918.

Extension of farm furloughs for conscientious objectors.

Camp and department commanders are authorized to extend farm furloughs for conscientious objectors for a period not to exceed six months upon application from the men themselves and the proper certificates from their employers as to the necessity for their services.

By order of the Secretary of War:

PEYTON C. MARCH,  
General, Chief of Staff.

Official:

P. C. HARRIS,  
The Adjutant General.

## EXHIBIT 28.

[Circular No. 94.]

WAR DEPARTMENT,  
Washington, November 27, 1918.

Wages of conscientious objectors furloughed to engage in labor.

In all cases where furloughs have been granted and are still in effect, or may in future be granted to conscientious objectors for purpose of engaging in farm or other labor as contemplated in circular letter from The Adjutant General of the Army, dated July 30, 1918 (383.2, Misc. Div.), the following method of putting into effect the provisions of paragraph 6 therein shall be adopted:

All employers of conscientious objectors, furloughed to farm or other labor, will be required to submit to the camp, post, or station commander granting the furlough a statement showing the current rate of wages paid for labor in his or her vicinity and thereafter shall be instructed to pay to the soldier only the amount of his pay as a private soldier (plus the value of his rations if not furnished in kind) and that the difference, if any, between this pay and the current rate of wages shall be remitted direct to the camp, post, or station commander or an officer designated by him for this purpose.

Further, that all funds accruing from this source shall be transferred at such times during each month as may be convenient to the assistant treasurer, American Red Cross, Washington, D. C., and receipts obtained therefor.

By order of the Secretary of War:

PEYTON C. MARCH,  
General, Chief of Staff.

Official:

P. C. HARRIS,  
The Adjutant General.

## EXHIBIT 29.

[Circular No. 97.]

WAR DEPARTMENT,  
Washington, November 29, 1918.

Discharge of conscientious objectors.

1. Conscientious objectors classified in groups 1a and 1c (those refusing noncombatant duty) at present retained in camps will be discharged.

2. If there is any doubt as to the proper classification of a conscientious objector who has not appeared before the board of inquiry for examination, he will be retained for such examination before he is discharged. After recommendation of the board is made and copy is supplied to the commanding officer of the post, camp, or station, authority is hereby given to discharge the man classified in above groups without waiting for approval and further direction from the War Department.

3. For the present all men on farm or indefinite furlough or on furlough with Friends Service Committee will be recalled only after consultation with the employer to determine whether it is the best interest of all concerned, and at the request of the soldier. After such men are recalled they will be discharged.

4. Form No. 526, A. G. O., will be used for the discharge of class 1a and 1c conscientious objectors. There will be interpolated after the authority is filled in following the words "by reason of" in the fourth line the following remark:

"This is a conscientious objector who has done no military duty whatsoever and who refused to wear the uniform."

By order of the Secretary of War:

PEYTON C. MARCH,  
*General, Chief of Staff.*

Official:

P. C. HARRIS,  
*The Adjutant General.*

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EXHIBIT 30.

Circular No. 135.

WAR DEPARTMENT.  
*Washington, December 11, 1918.*

Discharge of conscientious objectors.

1. Circular No. 97, War Department, 1918, is amended so as to include under the provisions thereof class 1-B conscientious objectors.

2. Class 2 conscientious objectors who have not yet been assigned to a noncombatant branch of the service or to noncombatant duty will be discharged on receipt of instructions to that effect from The Adjutant General of the Army based on reports submitted by the board of inquiry or on future reports from commanding officers of conscientious objectors in this class who have not yet been assigned to noncombatant duty.

By order of the Secretary of War:

PEYTON C. MARCH,  
*General, Chief of Staff.*

Official:

P. C. HARRIS,  
*The Adjutant General.*

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EXHIBIT 30a.

DISCHARGE FROM THE UNITED STATES ARMY.

*To all whom it may concern:*

This is to certify that \* .....

† .....  
The United States Army is hereby discharged from the military service of the United States by reason of ‡ .....

Said ..... was born in ..... in the State of ..... When enlisted he was ..... years of age and by occupation a ..... He had ..... eyes, ..... hair, ..... complexion, and was ..... feet ..... inches in height.

Given under my hand at ..... this ..... day of ....., one thousand nine hundred and .....

.....  
.....  
*Commanding.*

Form No. 526, A. G. O., Oct. 9, 1918.

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\*Insert name—Christian name first; e. g., "John Doe."

†Insert Army serial number, grade, company, and regiment, or arm or corps or department; e. g., "1620302," "Corporal, Company A, 1st Infantry;" "Sergeant, Quartermaster Corps;" "Sergeant, First Class, Medical Department."

‡State fully actual cause of discharge, giving number, date, and source of order or full description of authority therefor.



[Reverse of Form.]

ENLISTMENT RECORD.

Name: \_\_\_\_\_ Grade: \_\_\_\_\_  
Enlisted, or inducted \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_  
Serving in \_\_\_\_\_ enlistment period at date of discharge.  
Prior service: \* \_\_\_\_\_  
Noncommissioned officer: \_\_\_\_\_  
Marksmanship, gunner qualification or rating: † \_\_\_\_\_  
Horsemanship: \_\_\_\_\_  
Battles, engagements, skirmishes, expeditions: \_\_\_\_\_  
Knowledge of any vocation: \_\_\_\_\_  
Wounds received in service: \_\_\_\_\_  
Physical condition when discharged: \_\_\_\_\_  
Typhoid prophylaxis completed. \_\_\_\_\_  
Paratyphoid prophylaxis completed. \_\_\_\_\_  
Married or single: \_\_\_\_\_  
Character: \_\_\_\_\_  
Remarks: \_\_\_\_\_  
Signature of soldier: \_\_\_\_\_  
Is not recommended for reenlistment. \_\_\_\_\_  
*Commanding*

\*Give company and regiment or corps or department, with inclusive dates of service in each enlistment.  
†Give date of qualification or rating and number, date, and source of order announcing same.

EXHIBIT 31.

*Statistics of court-martial cases of conscientious objectors, compiled to June 7, 1919.*

Tried by courts-martial.....	504
Acquitted.....	1
Convicted and sentenced.....	503
Disapproved:	
By reviewing authority.....	3
On recommendation of Judge Advocate General.....	50
Effective sentences.....	450

ORIGINAL SENTENCES OF COURTS.

Death.....	17	2 years.....	3
Life.....	142	50 years.....	3
10 years.....	89	8 years.....	1
20 years.....	73	11 years.....	1
25 years.....	57	12 years.....	1
15 years.....	47	13 years.....	1
5 years.....	29	18 years.....	1
30 years.....	19	28 years.....	1
3 years.....	5	45 years.....	1
1 year.....	4	99 years.....	1
40 years.....	4		
Less than 1 year.....	3		
			503

## 52 TREATMENT OF CONSCIENTIOUS OBJECTORS IN THE ARMY.

### SENTENCES AS FINALLY EXECUTED AFTER REVIEW BY REVIEWING AUTHORITIES AND BY JUDGE ADVOCATE GENERAL'S OFFICE.

25 years.....	166	8 years.....	1
10 years.....	94	11 years.....	1
15 years.....	65	12 years.....	1
20 years.....	49	13 years.....	1
5 years.....	32	18 years.....	1
30 years.....	18	28 years.....	1
3 years.....	8	Sentence disapproved and ac-	
1 year.....	4	cused released.....	53
Less than 1 year.....	2	Sentence suspended.....	1
2 years.....	2		
50 years.....	2		503
35 years.....	1		
Sentences mitigated by reviewing authorities.....			185
Sentences mitigated on recommendation Judge Advocate General.....			11

#### EXHIBIT 32.

WAR DEPARTMENT,  
THE ADJUTANT GENERAL'S OFFICE,  
*Washington, December 21, 1918.*

From: The Adjutant General of the Army.  
To: The Judge Advocate General of the Army.  
Subject: Conscientious objectors serving sentences.

The Secretary of War directs that you continue to furnish, as in the past, the board of inquiry on conscientious objectors, appointed by the Secretary of War, with all records pertaining to the cases of conscientious objectors convicted of military offenses as such.

J. W. RILEY, *Adjutant General.*

#### EXHIBIT 33.

WAR DEPARTMENT,  
THE ADJUTANT GENERAL'S OFFICE,  
*Washington, December 21, 1918.*

From: The Adjutant General of the Army.  
To: Officers exercising court-martial jurisdiction and the Commandants of the United States Disciplinary Barracks and its branches.  
Subject: Conscientious objectors serving sentences.

The commanding officer of each Disciplinary Barracks or other military institution in which conscientious objectors are serving sentences is hereby instructed to permit the members of the board of inquiry on conscientious objectors, appointed by the Secretary of War, to personally interview and examine such prisoners of this class as they may designate. Every facility (including records) in keeping with security and discipline will be granted the members of this board.

By order of the Secretary of War:

J. W. RILEY, *Adjutant General.*

#### EXHIBIT 34.

DECEMBER 31, 1918.

COMMANDING GENERAL, EASTERN DEPARTMENT,  
*Governors Island, N. Y.*

Reference A. G. O. telegram November 27 directing retaining conscientious objectors until detailed instructions received concerning their discharge, you are informed that War Department circulars number 97 and 135 are the only such detailed instructions contemplated period. Action on application for discharge of conscientious objectors assigned to duty should be same as on any other enlisted man period. War Department desires all cases promptly cleared up and all conscientious objectors not yet assigned to duty and eligible for discharge promptly discharged under provisions of instructions already issued.

HARRIS.

The above telegram sent to camps, departments, and ports of embarkation.

## APPENDIX A.

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### REPORT CONCERNING CONSCIENTIOUS OBJECTORS UNDER THE BRITISH MILITARY SERVICE ACTS.

MARCH 3, 1919.

From: Col. James S. Easby-Smith, Judge Advocate.

To: The Provost Marshal General.

Subject: Report concerning conscientious objectors under the British military service acts: A. Exemption from military service; B. Punishment for military offenses.

Inclosures: Exhibit 1: Extracts from British military service acts relating to exemption on the ground of conscientious objection. Exhibit 2: Extracts from regulations and instructions governing local, appeal, and central tribunals. Exhibit 3: Memorandum of circulars of instruction to local tribunals. Exhibit 4: Copy of application (questionnaire) for exemption on ground of conscientious objection. Exhibit 5: Twenty typical cases showing disposition by the local tribunals, the appeal tribunals, and the central tribunal of applications for exemption of conscientious objectors. Exhibit 6: Extracts from the British army act, the King's regulations, and army orders of 1916, concerning conscientious objectors. Exhibit 7: Report concerning course of treatment of conscientious objectors by the British tribunals and military authorities. (Copy furnished by Lieut. Col. Sharp, G. S., War Office.)

1. In the course of the investigation and study of the operation and results of the British military service laws which I made in England in compliance with the orders of the Chief of Staff of the 20th November, 1918, and of the Provost Marshal General of November 22, 1918, I made a careful study of the subject of conscientious objection to military service, not only as to the laws and regulations governing the matter and the disposition by the local tribunals, the appeal tribunals, and the central tribunal of claims for exemption of conscientious objectors; but also of the general course of treatment, including punishment, by the military authorities, of persistent objectors. In order that a comparison may be made with the United States laws and regulations, and the treatment and punishment of the same class of persons in the United States, I submit the following separate report on the subject:

#### A. EXEMPTIONS FROM MILITARY SERVICE.

2. The first British military service act of January 27, 1916, vested in the local tribunals power to grant exemption from military service "on the ground of a conscientious objection to the undertaking of combatant service." (See Exhibit 1.)

The tribunals having construed this law as granting authority to exempt conscientious objectors from combatant service only, the second military service act of May 25, 1916, declared that the power to grant certificates of exemption on conscientious grounds under the principal act is in addition to and not in derogation of the general power conferred by that act to grant an absolute, conditional, or temporary certificate in such cases. The second act also provided that in case of the issuing of a certificate of exemption on the grounds of conscientious objection the same might be conditioned upon the claimant continuing in or entering into employment under a specific employer in a specific place or establishment.

It will be observed that the provisions of the British acts were not limited to religious conscientious objectors but embraced all cases of genuine conscientious objection, whether based upon religious, moral, or other grounds; but it will be observed by reference to the decisions in typical cases contained in Exhibit 5 that the tribunals—and particularly the central tribunal, the court of last resort—decided that where a conscientious objection was based purely upon political beliefs, such objection was not such as was contemplated by the law.

3. The tribunals having jurisdiction of claims for exemption on the several grounds set up in the statute consisted of local tribunals having original jurisdiction of all claims, there being about 1,800 local tribunals, corresponding to the American local boards; from the decisions of the local tribunals every claimant had an appeal as of right to the appeal tribunals, there being 58 appeal tribunals, corresponding to the



district boards in the United States; there was also a central tribunal, sitting at London, to which tribunal claimants had no appeal as of right from the appeal tribunals but only with the consent of the appeal tribunal.

4. In Exhibits 2 and 3 will be found extracts from regulations and instructions for the government of the tribunals and extracts from circulars issued from time to time during 1916 and 1918 upon the subject of disposition of claims of conscientious objectors. Exhibit 4 consists of a copy of the application for exemption on conscientious grounds being in the form of a searching questionnaire. Exhibit 5 contains a number of typical cases indicating the disposition by tribunals of the several classes of cases of conscientious objectors.

It will be observed in examining the regulations that they provided that whenever an attested man claims to be a conscientious objector the claim should be strongly opposed by the national service representative, "as the claim is inconsistent with his voluntary attestation unless he accounts for his attestation by some very special circumstances."

In explanation of this regulation it may be stated in passing that during the years 1914 and 1915 and up to the date of the enactment of the first military service act one step toward voluntary enlistment was the voluntary attesting for service, by means of which the volunteer agreed that he should be attested for service and called to the colors at a certain time or with a particular group; and the regulation to which attention has been called related to men who during the volunteer period had voluntarily attested themselves and after the passage of the military service acts attempted to annul the attestation and secure exemption as conscientious objectors.

5. By reference to paragraph 176 of the regulations (contained in Exhibit 2) it will be observed that when a conscientious objector has been granted exemption from combatant service only he may appeal for variation of the exemption, may seek exemption from noncombatant service also conditioned on employment in work of national importance; and under section 2 of amended orders of June 1, 1916, it was provided that a certificate of exemption may be absolute, conditional or temporary, and in a case of an application on conscientious grounds may take the form of exemption from combatant service only or conditioned on the applicant being engaged in some work which, in the opinion of the tribunal, is of national importance.

In the circular of June 1, 1916, issued shortly after the enactment of the second military service act, attention of the tribunals was called to the provisions of the new act under the terms of which exemption from all military service may be granted to conscientious objectors. (See Exhibit 3.)

In a circular of inquiry issued January 2, 1918, it is stated that: "It has been represented that at the present moment there are serving in the Army a certain number of men who would have been given absolute exemption by the tribunals had such tribunals been aware they had the power to do so." An inquiry was made as to whether or not such had in fact been the case. In response to this inquiry the tribunals unanimously stated they were fully aware of a power to grant exemption from all forms of military service and that there were no cases of men held for noncombatant service whom they would have exempted from all military service.

By reference to the circulars of February 3, 1916, and June 1, 1916 (Exhibit 3), it will be observed that the instructions issued to the tribunals emphasize the duty of the tribunals to give careful, impartial, and unbiased consideration to the claims of conscientious objectors.

In section 16 of the circular of February 3, 1916, appears the following:

"The man who honestly and as a matter of conscience objects to combatant service is entitled to exemption. While care must be taken that the man who shirks his duty to his country does not find unworthy shelter behind this provision, every consideration should be given to the man whose objection genuinely rests on religious or moral convictions. Whatever may be the views of the members of the tribunal, they must interpret the act in an impartial and tolerant spirit. Difference of convictions must not bias judgment.

"The local authority, in making their appointments to the tribunal, should bear in mind that the tribunal will have to hear, among the applications, those made on the ground of conscientious objection. Men who apply on this ground should be able to feel that they are being judged by a tribunal that will deal fairly with their cases."

In section 19 of the circular of June 1, 1916, this matter was again emphasized in the following language:

"It is the duty of the tribunals to sift out with care the genuine cases of conscientious objection, and to give the appropriate relief contemplated by the act—noncombatant service where that is adequate to meet the genuine conscientious scruples, whether based on religious or on moral grounds; exemption from all military service if that alone can meet the merits of the case. *Where the latter exemption is granted it should,*

*of course, generally be coupled with a condition that the applicant is to engage in work of national importance."* (Italics supplied.)

6. It appears that the tribunals granted no unconditional exemptions from all military service but that they disposed of claims as follows:

(1) By granting unconditional exemption from combatant service only in which event the claimants were ultimately recruited into the Army for noncombatant service.

(2) By granting conditional exemption from combatant service only, the condition usually being that the claimant should, within the time fixed by the tribunal, engage in some specific form of noncombatant service such as the ambulance service, Red Cross, sanitary or hospital service, etc.

(3) By granting exemption from all military service upon condition that the claimant engage within a period of time specified by the tribunal in some specified work of national importance. No unconditional exemptions from all service were granted.

It was impossible to secure any statistics concerning the number of such claims made and the manner of disposing of them. Recent reports made by the national service ministry and the local government board have not yet been published or released and are held to be confidential until such publication or release.

In Exhibit 5 will be found 20 typical cases showing the disposition by the tribunals of applications of conscientious objectors. Most of the cases relate to individuals, but several relate to groups of individuals without the numbers being stated. An examination of these cases shows that four claimants were granted exemption from combatant service only; nine were granted conditional exemption from all military service, the condition being immediate engagement in work of national importance; five claims were altogether denied, and no cases of unconditional exemption from all service were granted.

It will also be observed from an examination of these typical cases in each of which the disposition was made by the local tribunal first, then by the appeal tribunal, and finally by the central tribunal, that the following propositions were definitely established and followed, namely: That conscientious objection, authorizing exemption is not limited to that based upon religious belief; that membership in a church opposing war is not sufficient to entitle a claimant to exemption, but there must be established a personal, conscientious objection; that genuine, moral, or humanitarian conscientious objection is sufficient regardless of the claimant's religion; that political opinion or objection without regard to religious or moral belief does not constitute conscientious objection within the meaning of the act.

The foregoing leads to the opinion that, in carrying into effect the provisions of legislation, the administrative authorities and the tribunals exercised great care and solicitude in protecting the privileges of the genuine conscientious objector, and disposed of the troublesome questions involved with a high degree of wisdom.

It now remains to discuss the conduct and treatment of the persistent objector.

#### B. PUNISHMENT FOR MILITARY OFFENSES.

7. Concerning the treatment and punishment of persistent objectors it appears, while no complete figures are at present obtainable, that the majority of men whose claims for exemption on conscientious grounds were altogether denied and the majority of those who were held for combatant service only, failed and refused to respond to notices calling them to the colors. Such men were arrested, tried in the civil courts, fined, and then delivered to the military authorities as absentees.

8. By reference to section 9 of the Army act (exhibit 6) it will be seen that every person subject to military law who disobeys in such manner as to show willful defiance of authority, shall, on conviction by court-martial, be liable to suffer death or such less punishment as in the act mentioned, and that every person subject to military law who disobeys any lawful command of his superior officer shall on conviction by court-martial be subject, if he commits the offense on active service, to suffer penal servitude or such less punishment as in the act provided; and if he commits the offense on inactive service, be liable, if an officer, to be cashiered, or suffer less punishment, and if a soldier to suffer imprisonment or such less punishment as the act provides.

In the annotated edition of the Army act issued in 1914, note 7:

"Religious scruples furnish no excuse for disobedience."

Section 583 of the King's regulations provides that with certain exceptions a soldier sentenced at home to imprisonment will be committed to a military prison; and that sentences of detention (in barracks) may be substituted for imprisonment. (See Exhibit 6.)

On May 25, 1916, Army Order No. 179 of 1916 was issued, which provides that where an offense against discipline has been committed and the accused soldier represents



that the offense was the result of conscientious objection to military service, imprisonment and not detention should be awarded; and in such cases the imprisonment must be in the nearest public civil prison.

On July 27, 1916, another army order was issued reciting that it appears from the proceedings of district courts-martial received at the war office that in many instances the members of the court have not been aware of the order of May 25, 1916, and attention is called to it to insure that in future a copy of the order will be referred to the court-martial trying such a case. (Exhibit 6.)

9. Exhibit 7 attached hereto is a copy of a report furnished by Lieut. Col. Tharp of the British Army general staff, through the military attaché of the American Embassy at London, in which is recited the course of treatment of conscientious objectors adopted and modified from time to time by the military authorities.

By reference to this report it will be observed that in the beginning when a conscientious objector arrived at the military center to which he was conducted and persisted in his objection he was in most cases remanded for court-martial for disobedience to orders. In the early cases the courts-martial invariably inflicted sentences of detention under section 583, King's regulations. While not stated in the report, it is to be inferred from the general tenor of the report that the earlier sentences were severe. Some death penalties were imposed, but all such were commuted to 10 years penal servitude. Political agitation then made its weight felt and induced the higher civil authorities to insist that such offenders should not only be exempt from the death penalty, to which they were liable under section 9 of the army act, but that they should be exempted from sentences of detention; whereupon the army order of May 25, 1916, was issued inviting courts-martial to award sentences of imprisonment in lieu of detention and providing that such offenders should serve their sentences in civil prisons.

A further concession was made by providing that men who were sentenced to detention should not be sent overseas as drafts from detention.

Later it was decided that in no case should any offender undergo a sentence of more than 112 days imprisonment for a first offense, more than 140 days for a second offense, or more than 6 months for a third offense. Sentences of longer periods which had been imposed were reduced by the army council.

The desired ends not having been accomplished, further concessions were made to political agitation and popular clamor and the following successive further concessions were made.

In June, 1916, the premier, Mr. Asquith, announced in the House of Commons a plan for dealing with conscientious objectors. He announced that a tribunal would be set up which would personally interview every soldier court-martialed for an offense against discipline claimed to have been committed on the grounds of conscience. This tribunal if satisfied of the genuineness of the contentions would recommend that the objector be released from prison and sent to some work of national importance under the direction of a newly formed committee for the employment of conscientious objectors presided over by Mr. Brace, undersecretary of the home office. (This committee was afterwards known as the Brace committee.)

To accomplish these purposes the men would be released from prison under temporary pardon and placed under civil instead of military control. If a man misbehaved or absconded from the work he would be recalled to the colors and returned to prison, and if the term of his sentence had expired he would be returned to the army for duty with his unit. In the interval between the delivery of the prime minister's speech and the setting up of the tribunal, conscientious objectors who had completed their terms of imprisonment were put on indefinite furloughs until their cases could be dealt with by the tribunal.

In November, 1916, army order No. 407 was issued providing that all conscientious objectors sentenced to imprisonment should be sent to Wormwood Scrubs Prison in order to concentrate them at a place convenient for interview by the tribunal, which paid weekly visits to the prison.

The Brace committee set up various work centers throughout the country where they concentrated large bodies of conscientious objectors who performed work of national importance.

In December, 1917, further concessions were announced which provided that any man who had served with good behavior for 12 months in prison would be treated under prison rules allowing considerable indulgence as regards food, correspondence, literature, exercise, etc., and that any man reported by the medical officer of a prison as being in poor health would have his sentence remitted and discharged from prison and also released from the colors. It was also announced that men who had worked well for a year under the Brace committee would be allowed to work away from control on work of their own choosing, provided the new employment and employers were sanctioned by the committee.



It was further announced that the tribunals would be circularized to supply names of conscientious objectors who might have been granted total exemption from all military service had the tribunals been aware of their power. (The result of this circularization of the tribunals has been heretofore stated—that is to say the boards reported that there were no such cases and that they had been aware of their power.)

As a result of the course of conduct above recited it appears that from the going into effect of the first military service act to the end of December, 1917, approximately 3,500 conscientious objectors were court-martialed 3,000 of whom, at the end of December, 1917, were working under the Brace committee.

In addition to the foregoing and in order to provide for the men who were exempted from combatant service but held for noncombatant service a noncombatant corps was created, units of which were employed at home and in France on duties of a non-combatant nature. The report concludes as follows:

"The conscientious objector privates can be, and are in fact, required to perform any and all duties other than those of bearing arms or of being trained in the use of arms, but in order to safeguard the chances of their being placed in a false position, they are not employed in circumstances or in localities where the possibility might arise of their being obliged to take up arms in self-defense."

Particular attention is directed to the whole of this very interesting and instructive report (Exhibit 7) which has been summarized above.

10. From the foregoing it appears that valuable results were obtained from the increasingly lenient character of treatment of conscientious objectors whose objections upon investigation appeared to be genuine; the principal result being that of approximately 3,500 objectors who persistently refused to perform any sort of military service and persistently disobeyed all military orders and instructions, 3,000 were turned into various sorts of work of national importance, leaving only 500 or less to be punished further or to be compelled to render service in some noncombatant capacity.

11. As above stated, it is impossible to secure figures showing even approximately the number of claims which were made upon the ground of conscientious objection or how such claims were disposed of, but it is to be inferred that all such claimants acquiesced in the decisions of the tribunals and performed their combatant or non-combatant military service in accordance with the decisions of the tribunals except the 3,500 above mentioned of whom only 500 or less remained recalcitrant.

JAMES S. EASBY-SMITH,  
*Colonel, Judge Advocate.*

#### EXHIBIT 1.

[Extracts from British Military service Acts.]

#### CONSCIENTIOUS OBJECTORS.

The first military service act of January 27, 1916, provides in section 2, subparagraph (1):

"An application may be made at any time before the appointed date to the local tribunal established under this act by or in respect of any man for the issue to him of a certificate of exemption from the provisions of this act—\* \* \* (d) on the ground of a conscientious objection to the undertaking of combatant service, and the local tribunal, if they consider the grounds of the application established, shall grant such a certificate."

In the second military service act of May 25, 1916, it is provided in section 4, subparagraph (3):

"It is hereby declared that the power to grant special certificates of exemption in the case of an application on conscientious grounds under subsection (3) of section 2 of the principal act is in addition to and not in derogation of the general power conferred by that act to grant an absolute, conditional or temporary certificate in such cases."

Section 5 of the second act also provides that:

"The provision in subsection (3) of section 2 of the principal act, that no certificate of exemption shall be conditional upon a person to whom it is granted continuing in or entering into employment under any specified employer or in any specified place or establishment, shall not apply to a certificate of exemption granted on the ground of a conscientious objection to the undertaking of combatant service."

## EXHIBIT 2.

[Extracts from British Regulations and Instructions for Tribunals.]

## CONSCIENTIOUS OBJECTORS.

Memorandum of regulations and instructions issued by authority of the military service acts:

## CONSCIENTIOUS OBJECTORS.

82. Under the instructions contained in paragraph 81, certain men who have voluntarily attested may apply to a tribunal by way of fresh application in consequence of being sent a statutory order, and the grounds of application may be any of those authorized by M. S. acts, 1916, including those of ill health, or infirmity, or conscientious objection to the undertaking of combatant service. Whenever an attested man claims to be a conscientious objector, the claim should be strongly opposed by the N. S. R. concerned, as his attestation is inconsistent with such conscientious objection, unless some very special circumstances are proved to have led to his attestation—such, for instance, as a misapprehension as to his position, or improper pressure having been brought to bear upon him to become attested.

Further instructions relating to applications to tribunals by men who have been sent a statutory order are contained in Chapter VI.

## CONSCIENTIOUS OBJECTORS.

128. There is one exception to the procedure laid down in R. 123, Section III, rule 5, and that is in the case of conscientious objectors. Applications relating to certificates granted on conscientious grounds are still made to the local or appeal tribunal by whom the previous application was decided.

## CONSCIENTIOUS OBJECTORS.

165. (B) As every such man starts afresh with full tribunal rights, he may apply for exemption on any grounds, including those of ill health or infirmity or of conscientious objection. If, however, an attested man applies on the ground of conscientious objection, the application should be strongly opposed by the N. S. R., as the claim is inconsistent with his voluntary attestation, unless he accounts for his attestation by some very special circumstances. (See par. 82.)

Instructions relating to existing exemptions held by men sent a statutory order are set out in paragraph 81.

## EXEMPTIONS FROM COMBATANT SERVICE.

176. When a man has been granted exemption from combatant service only on conscientious grounds, he may apply for variation of the exemption (for example) to obtain exemption from noncombatant service also, conditional on being employed in work of national importance, provided he complies with the provisions of the regulations and instructions in relation to such applications. Some of these men, however, attempt to evade service in noncombatant corps by applying for variation of their certificates, and it is to be noted that the making of such an application is no bar whatever to the man being called up for service and sent forward to the Military Reception Depot for service in a noncombatant corps.

[Amended orders of June 1, 1916.]

2. A certificate of exemption may be absolute, conditional, or temporary, as the local tribunal think best suited to the case, and also in the case of an application on conscientious grounds, may take the form of an exemption from combatant service only, or may be conditional on the applicant being engaged in some work which, in the opinion of the tribunal, is of national importance.

"A certificate of exemption may be granted subject to the condition that it shall not be renewable or open to variation except on application made with the leave of the tribunal. The decision of the tribunal granting or refusing leave under this provision shall be final."

Where a conditional certificate is granted the conditions upon which it is granted shall be stated on the certificate.

No certificate of exemption, other than a certificate granted on the ground of a conscientious objection to the undertaking of combatant services, may be conditional upon a person to whom it is granted continuing in or entering into employment under any specified employer or in any specified place or establishment.

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### EXHIBIT 3.

[Extracts from circulars.]

#### CONSCIENTIOUS OBJECTION.

In a circular issued February 3, 1916, under the first military service act, section 16 provides as follows:

"16. *Cases of conscientious objection.*—The man who honestly and as a matter of conscience objects to combatant service is entitled to exemption. While care must be taken that the man who shirks his duty to his country does not find unworthy shelter behind this provision, every consideration should be given to the man whose objection genuinely rests on religious or moral convictions. Whatever may be the views of the members of the tribunal, they must interpret the act in an impartial and tolerant spirit. Difference of convictions must not bias judgment.

"The local authority, in making their appointments to the tribunal, should bear in mind that the tribunal will have to hear, among the applications, those made on the ground of conscientious objection. Men who apply on this ground should be able to feel that they are being judged by a tribunal that will deal fairly with their cases.

"As previously mentioned, the certificate of exemption may be from combatant service only, in which case the man would not be exempt from service in, for instance, the royal army medical corps. The exemption should be the minimum required to meet the conscientious scruples of the applicant.

"It may be made a condition of exemption that the applicant is or will be engaged in work which in the opinion of the tribunal is of national importance.

"There may be exceptional cases in which the genuine convictions and the circumstances of the man are such that neither exemption from combatant service nor a conditional exemption will adequately meet the case. Absolute exemption can be granted in these cases if the tribunal are fully satisfied of the facts."

In a circular issued June 1, 1916, under the second military service act, section 19 provides:

#### "CONSCIENTIOUS OBJECTION.

"19. Mr. Long fully realizes that the tribunals in dealing with cases of conscientious objection have a difficult task and one that calls for much patience.

"It is the duty of the tribunals to sift out with care the genuine cases of conscientious objection, and to give the appropriate relief contemplated by the act—non-combatant service where that is adequate to meet the genuine conscientious scruples, whether based on religious or on moral grounds; exemption from all military service if that alone can meet the merits of the case. Where the latter exemption is granted it should, of course, generally be coupled with a condition that the applicant is to engage in work of national importance. It appears to Mr. Long that the case would have to be very exceptional to justify exemption free from any condition.

"To dispel some misapprehension which has lately again arisen as to the powers of tribunals to grant exemption from all military service, the new act contains a declaratory section that the special powers given to tribunals as to the kinds of exemption which may be granted in cases of conscientious objection do not take away their power to give absolute or conditional exemption in these as in other cases."

In a circular sheet dated August 26, 1916, appears the following:

"9. *Exemption from combatant service.*—To prevent some misunderstanding which appears occasionally to have arisen, it may be stated that a man who is given exemption from combatant service becomes a soldier and is drafted to the noncombatant corps. In such cases it is not competent to the tribunal to make any condition as to



his employment (beyond the condition that he is not to be employed as a combatant); the manner in which he is to be employed as a noncombatant is a matter for the military authorities.

"If the tribunal in any case are fully satisfied that the conscientious objection of a man entitles him to exemption from all military service on a condition that he is engaged on work of national importance, he should be granted a certificate accordingly. As to the form of certificates in cases of this kind, Mr. Long thinks that it would be of advantage to follow the lines of the decisions which have been given by the central tribunal and circulated to tribunals."

January 2, 1918, the following circular inquiry was addressed by the local government board to the local, appeal, and central tribunals:

CONSCIENTIOUS OBJECTORS.

[Circular. R. 168.]

LOCAL GOVERNMENT BOARD,  
Whitehall, S. W., 1, January 2, 1918.

SIR: I am desired by Mr. Hayes Fisher to inform you that he has received from the army council a letter in which it is stated that "as it has been represented that there are at the present moment serving in the army a certain number of men who would have been given absolute exemption by the tribunals had such tribunals been aware that they had the power to do so, the council would be grateful if the local government board could see their way to circularize tribunals, asking whether such has in fact been the case, and if so, that the names of any men who have received absolute exemption in these circumstances may be forwarded."

Mr. Hayes Fisher requests to be informed whether there are any men who claimed exemption from the tribunal on the ground of conscientious objection and were refused absolute exemption, not because the tribunal considered that such exemption was not justified in the cases in question, but because the tribunal were under the impression that they had no power to grant absolute exemption in such cases. If so, he will be much obliged if they will furnish him with full particulars, including the full name and address of the man and the date on which the case was decided by them. Particulars are required only of cases finally decided by the tribunal; that is, cases in which appeal was not made from their decision.

I am, sir, your obedient servant,

I. G. GIBBON.

The CLERK OR SECRETARY TO THE TRIBUNAL.

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EXHIBIT 4.

APPLICATION OF CONSCIENTIOUS OBJECTORS.

[British military service acts. R. 87.]

Local tribunal ——— Man to whom the application relates ———. Ref-  
erence No. ———.

*Application on the ground of conscientious objection.*

N. B.—It must be clearly understood that to justify exemption on grounds of conscience, it is not sufficient to show that opinions are held against war; there must be proof of genuine conscientious conviction.

The replies to the following questions should be numbered to correspond with the questions, and should be written on a separate sheet. This form should be returned with the replies:

1. State precisely on what grounds you base your objections to combatant service.
2. If you object also to noncombatant service, state precisely your reasons.
3. Do you object to participating in the use of arms in any dispute, whatever the circumstances and however just, in your opinion, the cause?
4. Would you be willing to join some branch of military service engaged not in the destruction but in the saving of life? If not, state precisely your reasons.
5. (a) How long have you held the conscientious objections expressed above?  
(b) What evidence can you produce in support of your statement? Please forward written evidence (from persons of standing if possible) which should be quite definite as to the nature and sincerity of your conscientious objections.

6. (a) Are you a member of a religious body, and if so, what body? (b) Is it one of the tenets of this body that no member must engage in any military service whatsoever? (c) Does the body penalize in any way a member who does engage in military service; if so, in what way? (d) When did you become a member of that body?

7. (a) Are you a member of any other body one of whose principles is objection to all forms of military service, and if so, what body? (b) When did you become a member?

8. Can you state any sacrifice which you have made at any time because of the conscientious objections which you now put forward?

9. (a) Assuming that your conscientious objections were established, would you be willing to undertake some form of national service (other than your present work) at this time of national need? (b) What particular kinds of national service would you be willing to undertake (state all the different kinds)? (c) Have you since the war broke out been engaged in any form of philanthropic or other work for the good of the community? If so, give particulars. (d) What sacrifice are you prepared to make to show your willingness without violating your conscience to help your country at the present time?

10. (a) If you are not willing to undertake any kind of work of national importance as a condition of being exempted from military service, state precisely your reasons; and also (b) how you reconcile your enjoying the privileges of British citizenship with this refusal.

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#### EXHIBIT 5.

#### TYPICAL CASES OF APPLICATIONS FOR EXEMPTION ON THE GROUND OF CONSCIENTIOUS OBJECTION UNDER THE BRITISH MILITARY SERVICE ACT.

##### *Case No. 1.*

Unattested man, age 25. Application on grounds of a conscientious objection.

Has become a Quaker since the outbreak of war. Evidence was produced of conscientious objection to military service before the war. Also claimed that, being a mathematical master in a secondary school, he was already engaged in work of national importance.

The tribunal were convinced of the sincerity of his conscientious objection to all forms of military service.

The central tribunal decided as follows:

"The tribunal grant exemption from combatant service only, subject to the proviso that if within 21 days after notice of this decision he joins the Ambulance or Red Cross Corps of the Society of Friends for ambulance work, or undertakes other ambulance work which is under recognized control and approved by the central tribunal, he shall be exempt from noncombatant service so long as he continues to act in one of the said capacities to the satisfaction of the persons in control thereof. The work proposed to be reported to the central tribunal for approval. Power is reserved to the central tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the proviso."

On this case the central tribunal also gave decisions with respect to two specific questions raised by the appeal tribunal, viz: (a) That they do not consider that a member of the Society of Friends is entitled as of right to absolute exemption; and (b) that it does not appear to them that the teaching of mathematics in a secondary school is of itself a work of national importance at this time which would justify exemption.

##### *Case No. 2.*

Unattested man, age 22. Application on grounds of conscientious objection. The man is an engine tender and boiler stoker (laundry).

He is a Christadelphian and joined that body before the war. He stated that he would be prepared to undertake services of a noncombatant nature provided that he would not be placed under military control.

The appeal tribunal had decided that the man be exempted from military service on the condition that he engaged in work which, in the opinion of that tribunal, was work of national importance.

The creed of this man's "ecclesia" or church forbids his taking the military oath or doing any work under military control. Some Christadelphians are engaged on munitions work, but the appellant objects on conscientious grounds to such work.

The central tribunal, being satisfied of the genuineness of the conscientious objection to all forms of military service, decided as follows:

"The tribunal having satisfied themselves that the appellant is a bona fide Christadelphian who joined that body before the outbreak of war, and that the basis of faith common to Christadelphians forbids them to take service under military authority, grant him exemption from combatant service only, subject to the proviso that if within 21 days he undertakes work which, not being under military control, is nevertheless useful for the prosecution of the war, under conditions approved by the tribunal, he shall be exempt from noncombatant service so long as he continues to carry out such work under such conditions. The work proposed to be reported to the tribunal for approval. Power is reserved to the tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the condition."

*Case No. 3.*

Unattested man, age 22. Member of the Church of England. Application on grounds of conscientious objection.

He was exempted by the local tribunal from combatant service only. That tribunal, whilst admitting that the appellant has a conscientious objection to war, did not feel that they could grant him exemption from noncombatant service, as he stated that he was dependent upon his father, whose income is partly derived from the manufacture of munitions of war.

This decision was confirmed by the appeal tribunal.

The central tribunal decided as follows:

"That the man be granted exemption from combatant service only, subject to the proviso that if within 21 days after the notice of this decision he undertakes some ambulance work which is under recognized control and approved by the central tribunal he shall be exempt from noncombatant service so long as he continues to act in the said capacity to the satisfaction of the persons in control thereof. The work proposed to be reported to the central tribunal for approval. Power is reserved to the central tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the condition."

*Case No. 9.*

Unattested man; age 36. Furniture and antique dealer. Has been a member of the Rationalist Press Association for some years.

Application on grounds of (1) serious financial hardship; (2) conscientious objection.

The local tribunal exempted from combatant service only. They considered that the applicant had no exceptional financial obligations.

He appealed to the appeal tribunal on conscientious grounds only. He was willing to work on a farm.

The appeal tribunal dismissed the appeal.

The central tribunal dismissed the appeal to them. In coming to their conclusion to retain the exemption from combatant service, the central tribunal had regard to the fact that no appeal had been made by the military representative.

*Case No. 10.*

Unattested man; age 30. A linen merchant's clerk. Application for total exemption on the ground that he is of German extraction. He was born abroad, but his father came to this country and was naturalized when appellant was 10 years old. He has many relatives in the German Army.

The local tribunal dismissed the application and the appeal tribunal confirmed the decision. The applicant appealed to the central tribunal, who dismissed the appeal. They were of opinion that the appellant's conscientious objection did not fall within section 2 of the military service act.

*Case No. 12.*

Unattested man; age 22. Application on ground of a conscientious objection. He is a Quaker. He stated that his beliefs were of long standing and produced evidence to show that when in Australia he protested when the Australian compulsory military training act was introduced.

The local tribunal granted exemption from combatant service only.

The appeal tribunal dismissed the appeal.



The central tribunal dismissed the appeal. In conveying their decision they stated as follows:

"The central tribunal, after hearing the appellant in person, were satisfied that, apart from his objection to the actual taking of life, his position was that his conscience would not permit him to accept as a condition of exemption that he should undertake any work other than work to which he felt that he was called, and that of that call he must be the sole judge. The tribunal did not consider that this was a form of conscientious objection recognized by the military service act, or one which could be recognized by the law of any organized State."

*Case No. 13.*

Unattested man; age 23. Land and mine surveyor. Application on grounds of conscientious objection. Christadelphian.

The man did not answer questions personally before the local tribunal, but was represented by a leading member of the Christadelphian body. The local tribunal refused the application.

The Christadelphian representative appealed on behalf of the man. At the hearing before the appeal tribunal the military representative raised the objection that the appellant was not an aggrieved person within the meaning of the military service act. The appeal tribunal overruled the objection, and granted exemption from combatant service.

The central tribunal dismissed the military representative's appeal, and decided (a) that the appeal tribunal were right in not refusing to hear the appeal; (b) that the man be exempt from combatant service only, in accordance with the decision of the appeal tribunal.

*Case No. 15.*

Unattested man; age 23. Teacher. A Baptist. Member of the Independent Labor Party and No-Conscription Fellowship. Application on grounds of a conscientious objection. His views had lost him his post as an elementary-school teacher.

The local tribunal granted exemption from combatant service only. The applicant appealed.

The appeal tribunal dismissed the appeal.

The central tribunal on the applicant's further appeal decided as follows:

"The tribunal grant exemption from combatant service only, subject to the proviso that if within 21 days after the notice of this decision he engage under the Friends' Ambulance Unit in such one of the following occupations as may be selected by the said unit, namely, (a) ambulance, Red Cross, sanitary, or hospital service, or (b) one of the trades or industries of immediate national utility approved by the Board of Trade, or (c) work in connection with docks or similar transport work of national importance, he shall be exempt from noncombatant service so long as he continues to act in one of the said capacities to the satisfaction of the persons in control of the Friends' Ambulance Unit.

"Power is reserved to the Central Tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the proviso."

*Case No. 19.*

Unattested man; age 40. Assistant master. Application on grounds of a conscientious objection. Also claimed that educational work was work of national importance. Member of the Society of Friends. Has held his present views for 15 years or more.

The local tribunal granted exemption from combatant service only.

The appeal tribunal dismissed the appeal.

The central tribunal decided as follows:

"That the man be granted exemption from combatant service only, subject to the proviso that if within 21 days after notice of this decision he joins the ambulance or Red Cross Corps of the Friends' Ambulance Unit for ambulance work he shall be exempt from noncombatant service so long as he continues to act in the said capacity to the satisfaction of the persons in control thereof. The work proposed to be reported to the central tribunal for approval. Power is reserved to the central tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the proviso."

*Case No. 37.*

Unattested man; age 29. Clerk and Methodist lay preacher. Application on grounds of a conscientious objection. He would not undertake noncombatant service. Local tribunal granted temporary exemption for one month. They considered the man a useful lay worker. The man appealed.

Appeal tribunal dismissed the appeal. They considered that the man's convictions were genuine and of long standing. The man, however, refused to undertake any work directly or indirectly connected with the war. The man appealed.

Central tribunal decided as follows:

"The tribunal grant exemption from combatant service only, subject to the proviso that if within 21 days after the notice of this decision he engaged under the Friends' Ambulance Unit in such one of the following occupations as may be selected by the said unit, namely:

- (a) Ambulance, Red Cross, Sanitary, or hospital service, or
- (b) Instruction and care of disabled or incurable soldiers,
- (c) One of the trades or industries of immediate national utility approved by the board of trade, or
- (d) Work in connection with docks or similar transport work of national importance, he shall be exempt from noncombatant service so long as he continues to act in one of the said capacities to the satisfaction of the persons in control of the Friends' Ambulance Unit. Power is reserved to the central tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the proviso."

*Case No. 38.*

Unattested man; age 26. Application on grounds of a conscientious objection. Quaker. Secretary of a peace committee. Member of the No-Conscription Fellowship and Fellowship of Reconciliation. He wished to continue his present work. His health is not good and he could not undertake regular clerical or teaching work. He can now take a few days' rest when necessary.

Local tribunal granted exemption from combatant service only. The man appealed.

Appeal tribunal confirmed the finding of the local tribunal. The man appealed further.

Central tribunal decided as follows:

"The tribunal grant exemption from combatant service only, subject to the proviso that if within 21 days after the notice of this decision he undertakes work under the Friends' Ambulance Unit, he shall be exempt from noncombatant service so long as he continues to perform the work to the satisfaction of the persons in control of the unit. Power is reserved to the central tribunal to extend the period of 21 days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the proviso."

In conveying this decision to the Friends' Ambulance Unit, the central tribunal stated that in this exceptional case, having regard to the evidence before them as to the man's health, they wished to give the unit discretion as to the kind of work within the classes recognized by the unit, to be undertaken by the man, on the distinct understanding that he was not to remain in his present post.

*Case No. 39.*

Nine cases of unattested men. Occupations various. Christadelphians. All professed the usual Christadelphian attitude of taking no part in politics, but in recognizing and discharging the duty of submitting to the laws of the land where these laws do not violate their conscience. They were willing to make sacrifices and do work of national importance provided it is under civil control.

The lower tribunals had granted either no exemption or exemption from combatant service only.

Central tribunal decided as follows in each case:

"The tribunal having satisfied themselves that the appellant is a bona fide Christadelphian, grant him exemption from combatant service only, subject to the proviso that if within twenty-one days he undertakes work which not being under military control is nevertheless useful for the prosecution of the war, under the direction of the Committee on Work of National Importance, and under conditions approved by the tribunal, he shall be exempt from noncombatant service so long as he continues to carry out such work under such conditions. The work proposed to be reported to the tribunal for approval. Power is reserved to the tribunal to extend the period of twenty-one days or to vary this order if the appellant establishes to their satisfaction that he has done his best but has failed to comply with the condition."

*Case No. 40.*

Unattested men. A colony of Seventh Day Adventists. Occupations various; theological students, makers of health foods, etc. Application for exemption from combatant service from the military oath, and from such noncombatant service as would conflict with the keeping of their Sabbath, which is from Friday sunset to Saturday sunset. They were willing to perform works of mercy on the Sabbath, accepting no pay for it.

Local tribunal granted exception from combatant service only. The men appealed.

Appeal tribunal dismissed the appeals. Further appeals made on behalf of the men.

Central tribunal dismissed the appeals after consulting the War Office and ascertaining that it was not possible to make special provision for these men as regards the keeping of their Sabbath.

*Case No. 41.*

Unattested man; age 22. Organ builder and repairer. Application on grounds of (a) conscientious objection; and (b) serious hardship (that his father's business in which he was employed would be seriously imperilled if he were called up). Member of the International Bible Students' Association. Was willing to undertake any work of national importance, not under military control, e. g., food production.

Local tribunal refused the application on both grounds. The man appealed.

Appeal tribunal dismissed the appeal. Since giving this decision the appeal tribunal had the case of the man's brother before them, and they granted him 14 days in which to find work of national importance. They recommended a similar decision in this case. The man appealed.

Central tribunal decided as follows:

"The tribunal were of opinion that there was not sufficient evidence that objection to war and fighting was one of the accepted tenets of the body calling itself the 'International Bible Students' Association.' Having regard to his views as personally explained, they exempt him from combatant service only.

*Case No. 42.*

Unattested man; age 26; postman. Application on ground of a conscientious objection. Member of the Salvation Army. Willing to do any work for the general good of mankind.

Local tribunal refused the application. The man appealed.

Appeal tribunal dismissed the appeal. They were not satisfied as to his conscientious objection, and they considered the fact that he was a member of the Salvation Army did not necessarily imply that he had conscientious objections sufficient to entitle him to exemption. The man appealed.

Central tribunal dismissed the appeal.

The appellant did not produce corroboration of his conscientious objections, and the central tribunal did not consider that there was evidence to justify them in differing from the decisions of the local tribunal and the appeal tribunal.

*Case No. 43.*

Unattested man; bank clerk. Application on grounds of a conscientious objection. Unitarian. Member of the Fellowship of Reconciliation. Willing to do farm work or similar work of national importance.

Local tribunal granted exemption from combatant service only. Man appealed.

Appeal tribunal adjourned the case for 14 days to enable the man to find work of national importance and report to them. Military representative appealed.

Central tribunal granted exemption from combatant service only, being of opinion that this would meet the man's conscientious objections.

*Case No. 44.*

Unattested man; age 19. Studying with a clergyman with a view to taking holy orders hereafter. Application on the grounds of a conscientious objection.

Local tribunal granted exemption from combatant service only.

Appeal tribunal dismissed the appeal. Were not satisfied that he was a student within the meaning of Army Council Instruction 462 of 1916.

Central tribunal held the plea for exemption was based mainly on an argument, presented by the man's tutor, that, by canon law, he would be debarred from ordination if he took part in war. The central tribunal decided that conscientious objection within the meaning of the act had not been established, and refused any exemption.



*Case No. 45.*

Unattested man; age 23. Theological student preparing for ordination in the Church of England. Socialist, member of the No-Conscription Fellowship, the Fellowship of Reconciliation, and the Union of Democratic Control. Application for total exemption on the grounds of a conscientious objection. Applicant did not base his claim on the fact that he was preparing for ordination, but quoted this in proof that his convictions were partly, at least, religious. Stated that as war between nations threatens the very existence of Christianity and Socialism as international forces, he felt all the more bound to adhere to his principles and to abstain from any participation in the war.

Local tribunal disallowed the claim. The man appealed.

Appeal tribunal dismissed the appeal. They were of the opinion that the appellant had not established that his objections were conscientious within the meaning of the act. Leave to appeal granted to the man in order that the questions might be determined (a) whether the man's objections were political or really conscientious; and (b) whether, if political, they entitled him to exemption.

Central tribunal dismissed the appeal. They were of the opinion after carefully considering the full statements put before them by the appellant, that his objection was a political one, and that such an objection was not a conscientious objection within the meaning of the Military Service Act. They were satisfied that the appellant's opinions were genuine.

*Case No. 46.*

Unattested man; age 25. Pawnbroker's manager. Application for exemption on the grounds of a conscientious objection. Not a member of any religious body. Can not injure a member of the great human family of which we are all members. President of the local branch of the Independent Labor party.

Local tribunal did not assent to the claim. Man appealed.

Appeal tribunal adjourned the hearing to enable the man to notify within 14 days what work of national importance he was willing to take up. The military representative appealed.

Central tribunal considered that the man had not made out a case for exemption on conscientious grounds and decided that no exemption should be granted.

*Case No. 55.*

Conscientious objection on moral grounds. The central tribunal have had before them a number of appeals by persons alleging conscientious objection to military service not based on any religious ground. These persons are in most cases members of some socialist organization. The cases differ. In some, the objection alleged is based on opposition to the present war; in others, on disapproval of the present organization of society, which the man considers not worthy of defence though he would fight in defense of a State organized in a way which he approves. These opinions, however genuinely and strongly held, do not in the view of a central tribunal constitute conscientious objection within the meaning of the Military Service Act.

In the majority of the remaining cases, the central tribunal are satisfied that the appellants have a genuine belief that the taking of human life in any circumstances is morally wrong, and the central tribunal held that such an objection is properly met by exemption from combatant service.

In some of these last cases, the appellant has proved a genuine and settled conscientious objection not only to the actual taking of life but to everything which is designed directly to assist in the prosecution of the war. Such cases, where established, entitle the appellant in the opinion of the central tribunal to exemption from all forms of military service upon conditions as to performing work of national importance, the terms of which will be found in cases decided by the central tribunal.

The central tribunal have carefully considered such authorized publications of socialist organizations as have been laid before them. On the material so far available they do not find that membership of any such organization is in itself evidence of a conscientious objection to military service.

The central tribunal regard the age of the man alleging conscientious objection as an important factor in consideration of the question whether his objection is so deliberate and settled as to entitle him to exemption or to the widest form of exemption.

## EXHIBIT 6.

[Extracts from British Army Act and the King's regulations.]

## CONSCIENTIOUS OBJECTORS.

Section 9, subparagraph (1) of the army act provides as follows:

"Every person subject to military law who commits the following offense; that is to say, disobeys, in such manner as to show a willful defiance of authority any lawful command given personally by his superior officer in the execution of his office, whether the same is given orally, or in writing, or by signal, or otherwise, shall on conviction by court-martial be liable to suffer death or such less punishment as is in this act mentioned; and

"(2) Every person subject to military law who commits the following offense; that is to say, disobeys any lawful command given by his superior officer, shall, on conviction by court-martial; if he commits such offense on active service, be liable to suffer penal servitude, or such less punishment as is in this act mentioned; and if he commits such offense not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this act mentioned, and if a soldier to suffer imprisonment, or such less punishment as is in this act mentioned."

Note 7 of the annotated order issued by the war office in 1914 states that: "Religious scruples furnish no excuse for disobedience."

Section 583 of the King's regulations and orders for the army provides that a soldier who is convicted by a court-martial of certain offenses under the army act ought ordinarily be sentenced to imprisonment and undergo his sentence in a civil prison; that with certain exceptions a soldier sentenced at home to imprisonment will be committed to a military prison to undergo his sentence; and that sentences of detention have been introduced into the scale of punishments in order that courts-martial may sentence offenders to detention instead of imprisonment and reviewing authorities may commute the sentence of imprisonment to one of detention. A soldier sentenced to detention undergoes his sentence in a detention barrack.

May 25, 1916, the following army order, No. 179, 1916, was issued:

"X. *Offenses against discipline*.—1. With reference to paragraph 583 (xi) of the King's regulations, where an offense against discipline has been committed and the accused soldier represents that the offense was the result of conscientious objection to military service, imprisonment and not detention should be awarded.

"2. A soldier who is sentenced to imprisonment for an offense against discipline, which was represented by the soldier at his trial to have been the result of a conscientious objection to military service, will be committed to the nearest public civil prison, as if his offense was included in paragraph 607 (i) of the King's regulations; the provisions of subparagraph iv of that paragraph shall not apply to a soldier so sentenced to imprisonment.

"3. War office letters 105, miscellaneous 805 (A.G. 3) of the 17th and 19th of May, 1916, are in consequence to be considered as canceled."

On July 27, 1916, the following order, No. 1491 of 1916, was issued:

"1481. *Alleged conscientious objectors*.—It appears from a perusal of the proceedings of district courts martial received at the W. O. that in many instances the members of the court have not been aware of the provisions of A. O. 179 of 1916 (A. O. X of May 25, 1916). G. O.'s C. in C. will ensure that in future in all cases where an act of insubordination is due to alleged conscientious objections, a copy of the A. O. referred to is laid before the court-martial on assembly, and the contents brought to the notice of the president and members.

"110/Gen. No. /3211 (A. G. 3)."

## EXHIBIT 7.

[Report concerning treatment of religious and conscientious objectors under the British conscription laws, furnished by Lieut. Col. G. Tharp, General Staff, British Army, war office.]

## CONSCIENTIOUS OBJECTORS.

1. Section 1 of the first military service act, 1916, sets out the classes of men affected by the provisions of this act, but section 2, subsection (1) (d) provides that men affected by section 1 may make application to a local tribunal established under the act for exemption on the grounds of conscientious objection to the undertaking of combatant service.



2. A man wishing to take advantage of this loophole can adopt the following course: He can apply to the local tribunal of his district, and may plead his conscientious objection to combatant service. It is possible for him to obtain either (a) complete exemption from all military service, (b) exemption from combatant service only (i.e., not exemption from noncombatant service), or (c) exemption from military service on condition that he undertakes some work of national importance to the satisfaction of the tribunal.

In the event of his failing to satisfy the local tribunal he can appeal to the appeal tribunal established under the act, and if he fails here he can, with the permission of the appeal tribunal, go yet further to the central appeal tribunal established under the act. In the event of his still failing before this last body, he will in due course enter the Army.

3. It has been found that the majority of men who fail to satisfy the tribunals also fail to respond to the notices calling them to the colors. The result of this is that they are in due course arrested by the civil police and taken before a magistrate, who, on conviction, fines the men and hands them over to the military as absentees.

4. Soon after the military service act came into force it was found that the conscientious objector did not cease to object on arriving at the military center to which he was conducted, and that in a very short time in most cases he had to be remanded for court-martial for disobedience of orders. The courts-martial dealt with the earlier cases as those of ordinary serving soldiers, and they invariably on conviction inflicted sentence of detention in accordance with the provisions of paragraph 583 of the King's regulations.

5. Political agitation then made its weight felt and induced the higher civil authorities to insist that not only should such men be exempt from the death penalty when they committed these acts of willful defiance and disobedience, to which they were liable under section 9 (1) of the army act, but to urge that they should even be exempted from sentences of detention. Army Order X of the 25th of May, 1916, which invited courts-martial to award sentences of imprisonment in lieu of detention when dealing with this class of offender, was therefore issued, and it enacted that conscientious objectors so dealt with should serve their sentences in civil prisons under civil control.

6. A further concession was also granted to the effect that those men who were none the less awarded sentences of detention should not be sent overseas as drafts direct from detention. The provisions of paragraph 622 of the King's regulations were thus waived, and army council instruction 1484 of the 28th of July, 1916, was issued so as to save these men from the above fate.

7. Under the direction of the director of personal services the military policy adopted for dealing with these men's sentences is as follows: The proceedings of all courts-martial on men who plead conscientious objection when received by the judge advocate general, are examined in the ordinary way for any legal irregularity, and, if found to be in order, are then submitted by him to the director of personal services on behalf of the adjutant general. By the director of personal services these cases are further scrutinized and considered on their merits. It was first decided that in no case should any first offender undergo a longer sentence than one of 112 days imprisonment with hard labor; in the case of a second offense, no longer than 140 days; and for a third offense, no longer than six months. To effect this, sentences of longer periods were reduced by the army council to the above lengths under the provisions of section 57 (2) (a) of the army act.

8. It was hoped that by this means those conscientious objectors who were not in fact genuine would see the error of their ways, and that after a spell (or two) in prison they would soldier in good part on return to their units. But political agitation clamored that such short sentences had the effect of increased severity, as the longer a man served in prison the more privileges he could gain by good behavior, while with each remission the conscientious objector had to start over again under the full initial restrictions at the next sentence. It was decided, therefore, in June, 1917, that such remissions of sentences as outlined above should no longer be made, and that in fact all sentences (up to the maximum of two years which could be granted under the King's regulations) should stand as awarded by the court.

9. Apart from the above concessions made to conscientious objectors under the military service act and also by the military authorities, many others were made. On June 29, 1916, the then premier, Mr. Asquith, announced in the House of Commons that he had decided to set up a scheme for dealing with conscientious objectors who might have failed to satisfy tribunals as to the genuineness of their convictions and who had consequently been sent into the army under the provisions of the act. He announced that a tribunal would be set up, to be known as the central tribunal, which would in fact personally interview every soldier who had been, or who should



be, court-martialed for an offense committed against discipline which, he claimed, was committed on the grounds of conscience. This tribunal would, if satisfied that there was substance in the man's contentions, recommend that he be released from prison and sent to work of national importance under the direction of a newly formed committee for the employment of conscientious objectors presided over by the under-secretary of the home office (Mr. Brace). The premier went on to state that for this purpose these men would be released from prison under temporary pardon and transferred to the army reserve class W; in this way meeting the clamor that such men should be dealt with under civil and not under military control. He added that men who misbehaved on, or absconded from, such work would be recalled to the colors immediately and returned to prison to undergo such remaining portion of their original sentence as might remain due at the time when they were recommitted to prison (it had been decided that in fact the sentences should continue to run during the time these men were at work), while in the event of a man's sentence having expired at the time of his recall to the colors, he would be returned immediately for duty with his unit. It should here be noted that in the interval between the delivery of the prime minister's speech and the actual setting-up of the tribunal, those conscientious objectors who completed their sentences of imprisonment, instead of being returned for service with their units, thereby running the risk of a fresh sentence of imprisonment by court-martial, were in fact sent on indefinite furlough, with permission to wear plain clothes, until such time as they were in due course dealt with direct by the tribunal.

10. It should also be stated that the men who appear before this tribunal came to be divided into the following classes:

(a) Men who on pleading their cases before the tribunal satisfied the tribunal that they ought to be sent for employment under the Brace committee, for work of national importance.

(b) Men who pleaded their cases and who for various reasons failed to satisfy the tribunal.

(c) Men who pleaded their cases and satisfied the tribunal, but refused to accept such work or any form of alternative service.

(d) Men who refused to plead before the tribunal at all.

These last two classes (who refused respectively to work or plead their cases) are granted the privilege of changing their minds subsequently at any time during their military career. To make investigation easy, in November, 1916, an army order, No. 407, was issued which enacted that all conscientious objectors awarded sentences of imprisonment should be sent, on first conviction, to Wormwood Scrubs Prison. This had the effect of concentrating at the nearest and most conveniently situated prison all the men whom the tribunal would have to interview. The tribunal were thus enabled to pay several visits weekly to this prison, with the consequence that the men were enabled to appear before them, roughly within one month from the date of their convictions.

11. For the employment of these men the Brace committee set up various work centers throughout the country, wherein they concentrated large bodies of conscientious objectors who performed an easy quantity of work of nominal national importance. The committee drew up their own rules for the running of these establishments—rules of considerable leniency. However, after the scheme had been running for some time, it was found necessary to tighten these rules, as the men took great advantage of them.

Men were also sent in smaller gangs, under responsible agents, away from work centers in various portions of the United Kingdom on a variety of tasks.

12. In December, 1917, political agitation again made itself felt, and Lord Curzon and Sir George Cave—the home secretary—in the respective Houses of Parliament, announced that further concessions would be granted to conscientious objectors who had failed to satisfy the tribunals as to the genuineness of their convictions. They announced that any man who had served with good behavior for 12 months in prison (not necessarily consecutively) would be treated under what is known as prison rule 243A. This rule allows certain indulgences as regards food, correspondence, literature, exercise, and cleaning cells. It was also announced that any man, serving a term of imprisonment, whom the medical officer of the prison might report as being in a poor state of health, would have his sentence remitted and that he would be discharged from prison, and, further, that he would be released from the colors and relegated to the reserve.

13. It was also announced that men who had worked well for one year under the Brace committee would be allowed to work away from all control of work centers or of the home office, on work of their own choosing, provided that the new employment and employers were sanctioned by the committee. (In the event of misbe-

havior while engaged on such employment, it was stated that the men would be recalled to the colors.)

14. It was yet further announced that the tribunals throughout the country would be circularized to supply the names of any conscientious objectors who might have appeared before them and to whom they would have granted total exemption from all military service, had they been aware that they had power to award such total exemptions. (This concession was due to the representations of a certain political section which argued that in the earlier days of the act, the tribunals were unaware that they had power to award total exemptions from military service.)

(It is to be noted that in such reports as have been received up to date, the tribunals concerned repudiate the suggestion that they were unaware that they had such power and add that they have no names to submit.)

15. Since March, 1916, when the military service act came into force down to the end of December, 1917, roughly, 3,500 conscientious objectors were court-martialed, of whom at the end of December, roughly, 3,000 were working under the Brace committee.

It is interesting to note that among the numbers court-martialed 66 professed religions or creeds are represented.

16. Lastly, it should be stated that to cater for the men who were granted exemption from combatant service by the tribunals, but who were not exempted from military service, a corps, known as the noncombatant corps, was created. This is officered by combatant commissioned officers who have been declared unfit for general service, and by noncommissioned officers who are men of a similar category, but the private soldiers are all conscientious objectors.

Units of the corps are employed at home and in France as required on duties of a noncombatant nature. The conscientious objector privates can be, and are in fact, required to perform any and all duties other than those of bearing arms or of being trained in the use of arms, but in order to safeguard the chance of their being placed in a false position, they are not employed in circumstances or in localities where the possibility might arise of their being obliged to take up arms in self-defense.

## APPENDIX B.

### SUPPLEMENTAL REPORT CONCERNING CONSCIENTIOUS OBJECTORS UNDER THE BRITISH MILITARY SERVICE ACTS.

MAY 1, 1919.

From: Col. James S. Easby-Smith, Judge Advocate.

To: The Provost Marshal General.

Subject: Supplemental report concerning conscientious objectors under the British military service acts.

1. In my original report concerning conscientious objectors under the British military service acts, dated March 3, 1919, the statistics which were included relate only to the period from the enactment of the first British act, in January, 1916, to the close of the year 1917. It appears that during that period approximately 3,500 conscientious objectors who resisted the British military service acts were court-martialed and that 3,000 of these had been released and assigned to work of national importance under the so-called Brace committee; leaving about 500 serving sentence or rendering noncombatant service in the Army.

2. Under date of April 26, 1919, the Associated Press in a dispatch dated at London, publishes a statement concerning conscientious objectors with certain figures recently officially announced by the British Government. From this statement it appears that from the enactment of the first British military service act in January, 1916, to the conclusion of recruitment after the armistice, 6,135 men resisted British conscription, of whom 5,596 were court-martialed, 240 subsequent to the armistice.

3. Since April 8, 1919, when a War Office order governing the release of objectors became effective, more than 450 conscientious objectors serving terms of imprisonment have been liberated. No detailed information is available as to the contents of the order of April 8, except that it apparently provides for clemency to those only who have served one or more sentences aggregating at least two years. It also appears from the dispatch that there are about 500 religious and other conscientious objectors who are still confined and serving sentences of imprisonment.

4. From these figures it is fairly inferable that of the 6,135 conscientious objectors who resisted draft in England, 539 subsequently accepted some form of service and that of the remaining 5,596 who were court-martialed 4,646 were turned into various sorts of work of national importance under the operations of the Brace committee, leaving about 950 who were persistently recalcitrant and who were punished by confinement.

5. It is stated in the dispatch above mentioned that from the beginning of conscription there has been considerable public agitation, in the press and elsewhere, against the punishment of conscientious objectors. It is further stated that: "The argument advanced for still keeping conscientious objectors confined is, that if they were released now they would be given an unfair advantage in the matter of obtaining employment over the men who are unable to secure demobilization from the Army."

6. Prof. Arthur Venn Dicey, of Oxford University, in an article on the Conscientious Objector, published in the *Nineteenth Century and After* for the month of February, 1918, says: "As a matter of common sense, it would seem that the objector who desires noncombatant service had better in general be employed in work of national importance, which is not directly connected with the Army, but that if so, the objector should not gain more by the employment than he would get when employed in military service."

This is of interest in view of the fact that it recommended a course of action which was adopted by the War Department (without any knowledge of or reference to the English procedure or discussions) in the course of the evolution of the treatment of conscientious objectors in this country. This was done by the adoption of the furlough system under the orders of June 1 and 10 and July 30, 1918.

The condition stated by Prof. Dicey that if the objector be employed in work of national importance he "should not gain more by employment than he would get when employed in the military service" was made effective by the orders of the War Department limiting the earnings of conscientious objectors, furloughed to industry, to the pay of a private soldier plus the value of rations if not furnished in kind by the employer.

JAMES S. EASBY-SMITH,  
*Colonel, Judge Advocate.*



